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Abstract
BANKRUPTCY—A LEGAL PROCESS DESIGNED to relieve honest but unfortunate debtors of their debts—allows for "a statutory exception to the common law and interferes with the ordinary relations between debtors and creditors."2 While modern bankruptcy scholarship recognizes that bankruptcy law is a commercial necessity, the debate in nineteenth- and twentieth-century Canada focused on whether it should exist at all.3 Why did Canada enact bankruptcy legislation after Confederation and repeal it in 1880? After repeal, why did Parliament take nearly forty years to enact the Bankruptcy Act of 1919? These are the central questions that Thomas GW Telfer answers in Ruin and Redemption, the first full-length study of the origins of Canadian bankruptcy law. Telfer argues that the law was shaped by conflict over the morality of release from debts and by the divergence of interests between local and distant creditors. In chapter one, Telfer outlines the two fundamental policy goals that "lie at the heart of all bankruptcy statutes."4 First, bankruptcy is concerned with the equitable distribution of assets among creditors. Second, bankruptcy entitles the debtor to a "fresh start" and a release of his or her debts through the order of a discharge.

Book Note

Ruin And Redemption: The Struggle For A Canadian Bankruptcy Law, 1867-1919, by Thomas GW Telfer[1]

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BANKRUPTCY—A LEGAL PROCESS DESIGNED to relieve honest but unfortunate debtors of their debts—allows for "a statutory exception to the common law and interferes with the ordinary relations between debtors and creditors."[2] While modern bankruptcy scholarship recognizes that bankruptcy law is a commercial necessity, the debate in nineteenth- and twentieth-century Canada focused on whether it should exist at all.[3] Why did Canada enact bankruptcy legislation after Confederation and repeal it in 1880? After repeal, why did Parliament take nearly forty years to enact the *Bankruptcy Act of 1919*? These are the central questions that Thomas GW Telfer answers in *Ruin and Redemption*, the first full-length study of the origins of Canadian bankruptcy law. Telfer argues that the law was shaped by conflict over the morality of release from debts and by the divergence of interests between local and distant creditors.

In chapter one, Telfer outlines the two fundamental policy goals that "lie at the heart of all bankruptcy statutes."[4] First, bankruptcy is concerned with the equitable distribution of assets among creditors. Second, bankruptcy entitles the debtor to a "fresh start" and a release of his or her debts through the order of a discharge.

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1. (Toronto: University of Toronto Press, 2014) 297 pages [*Ruin and Redemption*].
2. *Ibid* at 7.
3. *Ibid* at 4.
4. *Ibid* at 7.

Chapter two provides an overview of the legislative history between 1867-1880. Telfer notes that while the federal government was given power over "bankruptcy and insolvency" matters pursuant to section 91 of the *British North America Act*[5], the provinces retained the right to debtor-creditor matters generally pursuant to their "property and civil rights" power.[6] Telfer argues "the legislative history of the *Insolvent Acts of 1869* and *1875* demonstrates that there was little, if any, commitment to retaining bankruptcy and insolvency law as a national power."[7]

Chapters three, four, and five examine the debates that took place during the period 1867-1880. Chapter three examines how the equitable distribution of assets created a tension between local and distant creditors, resulting in a situation that was akin to the common law "race to the assets."[8] Chapter four highlights two distinct ideas about the discharge that competed in the public discourse. On the one hand, it was believed that debtors had a moral obligation to repay their debts. On the other, it was argued that the honest but unfortunate debtor "deserved a discharge from the millstone of debt."[9] During this period, many debtors chose to abscond to the United States, which suggests that the moral obligation to repay debt won out over notions of forgiveness.[10] In chapter five, Telfer examines the role that institutions played in the role of the 1880 repeal.

Chapter six examines the legislative reform efforts that took place at both the provincial and federal levels following repeal. While provincial legislation emerged as a potential solution to fill the void, in the end, it was far from comprehensive.[11] During the period of 1880-1903, Parliament debated twenty reform bills but was unable to reach a consensus.[12] Since politicians were unwilling to expend political capital on such a divisive issue, interest groups stepped in to lobby for reform.

In chapter seven, Telfer revisits the issue of federalism and the interplay between constitutional and bankruptcy law. Constitutional uncertainty over jurisdiction inhibited reform. In 1894, the Privy Council upheld the validity of provincial legislation, contributing to the growth of provincial laws and largely arresting federal reform efforts.

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5. *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5.
6. *Supra* note 1 at 22.
7. *Ibid.*
8. *Ibid* at 57.
9. *Ibid* at 80.
10. *Ibid.*
11. *Ibid* at 113.
12. *Ibid* at 102.

Chapter eight examines the debates that took place between 1880-1903. During this time period, the discussion once again focused on the moral obligation to repay debts, as many of the proposed reforms contemplated bankruptcy without a discharge. While local creditors continued to benefit from the absence of legislation, foreign creditors began to enter the debate and advocate for the equitable distribution of assets.

In chapters nine and ten, Telfer examines the success of the *Bankruptcy Act of 1919*—Canada's first modern bankruptcy statute.[13] The industrialization and urbanization of the Canadian economy, coupled with the growing regulatory state, reaffirmed the emergence of bankruptcy law as a national issue. Furthermore, the discharge was acknowledged as a commercial necessity, and as a way of maintaining the rights of creditors.[14]

13. *Ibid* at 172.
14. *Ibid* at 173.