

“I owe, I owe, it’s off to work I go.”

Regulating Private Bankruptcy in Bern, Switzerland, 1750-1900

Eric Häusler (University of Bern)

Working Paper to be presented at the 3rd WINIR Conference

2-5 September 2016, Boston, Massachusetts, USA

DRAFT VERSION.

DISCLAIMER: NOT TO BE PUBLISHED, FOR
DISTRIBUTION AMONG CONFERENCE PARTICIPANTS ONLY

Abstract

In 2011 the Financial Crisis Inquiry Commission concluded that the financial crisis of 2007-09 “was avoidable” and that it was caused in part by the vulnerability created by the fact that “too many financial institutions, as well as too many households, borrowed to the hilt” (United States, 2011: xvii and xix). The collapse of many of the large banks was prevented through government bailouts but financially overwhelmed households were and are still left with only one option: filing for bankruptcy. How societies deal with household bankruptcies is historically contingent. The discussions surrounding an optimal way to prevent and regulate future crises is ongoing. A historical perspective promises to be instructive to this discussion. This paper analyzes the empirical case of the so-called *Geltstag*, the way private bankruptcy was handled institutionally in Bern between 1750 and 1900. It employs the work of Luhmann (1969) on legitimation by procedure in combination with that of Berger and Luckmann (1966) on the social construction of reality as a theoretical backdrop to try to understand how the *Geltstag* became such an astonishingly resilient institution.

Acknowledgments

This paper is based on the author's Ph.D. project "Going Bankrupt: Household Consumption and Finance in Bern During the Long 19th Century" funded by the Swiss National Science Foundation and part of the framework project "Doing House and Family: Material, Culture, Social Space, and Knowledge in Transition (1700-1850)".

1. Introduction

In the aftermath of the financial crisis of 2007-09, questions regarding credit, debt and default catapulted into the center of public attention. The search for an optimal way to prevent and regulate future crises has provoked much controversial discussion. In 2011 the Financial Crisis Inquiry Report (United States, 2011: xii-xix) concluded that the crisis was avoidable and made clear that it was the result of human action and inaction by paraphrasing Shakespeare with the line “the fault lies not in the stars, but in us.”

The Commission was not asked to offer policy recommendations. Instead it compared its own function to the National Transportation Safety Board which “investigates aviation and other transport accidents so that knowledge of the probable causes can help avoid future accidents.” The central question the Commission had to answer was not if the federal government made the right decision in rescuing large banks deemed too systemically important to fail. Instead its mission was to analyze how the nation was forced to choose between saving the financial system or helping millions of Americans from losing their jobs, savings and homes.

A bill that was supposed to give homeowners similar options as corporations for financial relief was voted down by Congress in 2010 (Kuttner, 2015: xv). This can be interpreted as a missed chance for institutional change, to paraphrase North (1991: 98), that could have altered the economic environment towards increased productivity. As an anthology of the history of bankruptcy suggests, failure and its consequences contributed to “the great transformation” from premodern to our time. Authorities gradually learned to manage business failure in a more orderly manner by institutionalizing principles and procedures (Safley, 2013: 12-13). A comparison of international bankruptcy laws demonstrates the historical contingency of how societies deal with bankruptcy.

The empirical case of the *Geltstag* and the corresponding bankruptcy inventories of households in the city of Bern dating from the mid-18th to the end of the 19th century¹ make it possible to examine the precise mechanisms implemented by households and society, for debtors as well as creditors, in dealing with private bankruptcies. Hundreds of detailed bankruptcy inventories in the form of so-called *Geltstagsrödel* record how private debt

¹ This is the time period considered in the Ph.D. project on which this paper is based.

developed, how the nature of household assets and liabilities evolved and how the social environment of credit changed. This outstanding source material can be used to address questions concerning the way institutionalized bankruptcy in Bern influenced consumption patterns, how people managed households, what consequences bankruptcy had for households and individuals, how society handled bankruptcy and which norms and values were put forward.

This paper will focus on the remarkable resilience of the Bernese *Geltstag*, a bankruptcy institution that originated in the 16th century and remained in effect until the end of the 19th century (Meyer, 1913: 48). The colloquial use of the term *Geltstag* to designate bankruptcy continued well into the 20th century and thus outlasted the institution that spanned four centuries. What enabled the *Geltstag* to endure dramatic changes in the political, social and economic environment of Bern between 1750 and 1900 without losing legitimacy? In an attempt to find answers to this question, section 2 describes the *Geltstag* procedure, its historical background and the development of Bern from early modern to modern times. Next the paper examines the resiliency of the *Geltstag*. Section 3 explores how concepts introduced by Luhmann (1969) and Berger/Luckmann (1966) may be effectively applied to analyzing the *Geltstag* in the 18th and 19th centuries. Section 4 looks at the process of the *Geltstag*, focusing on its isolation from the environment, the openness and uncertainty of its outcome, the importance of a division of roles and how the enclosing argumentative structure helped in the social construction of reality. Section 5 concludes.

2. The *Geltstag* and Bern in the 18th and 19th Century

In Switzerland a variety of bankruptcy laws existed until a federal law (*Bundesgesetz über Schuldbetreibung und Konkurs*) was introduced in 1889 and implemented in 1892. In its essential parts, it is still effective today (Suter, 2016: 10-11). As mentioned above, the bankruptcy institution implemented to deal with bankruptcy in the city and canton of Bern was called *Geltstag*. Several different reasons led to the onset of a *Geltstag*. A creditor could demand a *Geltstag* if no further possibilities for reaching a solution through negotiation with his debtor without government interference were seen. If a debtor left his community without settling debts or installing a trustee to take care his affairs, a *Geltstag* was established by local

authorities. Another reason was the settlement of an estate after an inheritance was renounced. In this case the *Geltstag* functioned as a form of probate proceeding. A debtor himself could also voluntarily enter into the *Geltstag* procedure.

The aim of each *Geltstag* procedure was to achieve the highest possible sum through a public auction in order to pay back as much money as possible to as many creditors as possible according to the creditor classification. The procedure had to be signed by a judge who named a person (*Geltstagsverordneter*) responsible for conducting a *Geltstag* with the help of a scribe and, if necessary, other people capable of estimating the value of a debtor's material assets. Both sides, the debtor and the creditors, had an interest in the correct assessment of a debtor's assets and liabilities. The creditors of course hoped for the highest possible bankruptcy estate sum. The debtor was motivated to help in the correct reconstruction of his assets because a *Geltstag* remained temporarily in effect until the assessment of the estate was finalized. The *Geltstag* was revoked if a debtor was able to settle all his financial liabilities. As a first step in the procedure, all assets and documents relating to business transactions and accounts were seized and an inventory of all assets was created. If names of possible creditors were uncovered through this process, they were contacted and informed of the necessity to produce proof for their claims within a certain time frame. In addition, the forthcoming *Geltstag* was announced publicly. All assets (household items, real estate, property, mortgages, deposits, livestock etc.) inventoried and appreciated had to be auctioned at the estimated price or higher or were otherwise divided among the creditors. Creditors who could not produce the required proof or neglected to do so in time lost their claims.

The period from 1750 to 1900 is not identical to but in large part corresponds with the period of the *Sattelzeit* or *the long 19th century*. Both terms describe a time of dramatic changes that were part of a transformation of society into so-called modernity. For Switzerland the first 100 years from the middle of the 19th century until 1848 can adequately be described as a "revolutionary era during which a modern state-form and political culture emerged" (Lerner, 2012 :3). On the way to becoming a modern state, the Helvetic Republic (1798-1803) introduced new ideas concerning individual political rights which were then partly exchanged by the Mediation Act which in turn lost effect in 1815 after Napoleon's fall. The years leading up to the founding of the Swiss Confederation were shaped by a struggle between conservative elements

idolizing the Old Confederation and pursuers of liberal reforms. The Swiss constitution of 1848 encompassed ideas of the entire republican spectrum and in doing so, did not overcome but contained tensions between conservatives and liberals (Lerner, 2012 :1-3).

The city of Bern was governed by a patrician-aristocratic constitution. Its population remained stable in the 18th century but experienced relatively strong growth in the following century. The number of inhabitants grew from nearly 25,000 in 1798 to more than 92,000 people in 1900. The number of households increased from around 6,000 in 1847 to nearly 10,000 in 1888. From 1764 to 1900 the population of the Canton of Bern more than doubled from around 202,000 to 532,000 (BERNHIST).

Broad parts of the population participated in an evolving credit market in which impersonal forms of exchange gained importance. The foundation of Switzerland's first savings bank in 1787 was the first step towards Bern's leading position among the *Sparkassenbewegung* (Pfister, 1995: 285-288). This did not change the fact that in comparison with for example Italian, Dutch and German merchant towns, the Swiss banking system developed late. Even though the saving banks managed to popularize the usage of financial institutions, the banking system did not experience dynamic growth until the second half of the 19th century. In Bern the *Eidgenössische Bank* founded in 1864 was part of this growth and represented the idea of a universal bank (Ritzmann, 1973: 16-67). The breakthrough of a mass market and participation in mass consumption of wide parts of the population began after 1860 (Tanner, Studer and Hiestand, 2012: 640-641).

Between 1750 and 1900, Bern's economy did not encounter a crisis comparable to the financial crisis of 2007-09. Several years of subsistence crises in the 18th century were followed by a hunger crisis in 1816. The worst economic downturn took place in the middle of the 19th century. The decade long crisis functioned as a catalyst in the transformation from an agrarian to an industrial society and introduced a time of intensified demographic growth, urbanization and market integration. Afterwards Bern enjoyed an economic boom that lasted from 1856 until 1870. The effects of the panic of 1873 reached Switzerland with a delay and led to a modernization crisis that influenced politics in Bern from the late 1870s until 1888. The century ended with a booming economy until the outbreak of World War I (Pfister, 1995).

How did these societal developments influence the number of bankruptcies in Bern and which members of Bernese society were affected by a *Geltstag*? From the beginning of the statistical recording in 1832 until 1875, a total of 32,835 *Geltstage* occurred. At first the yearly average of *Geltstage* grew with each decade (1830s: around 230 cases per year, 1840s: nearly 400; 1850s: almost 1,100) until stabilizing and declining slowly after the economic crisis around the middle of the century (1860s: around 1,090, 1870s: 670) and rising in the last decade (1880s: almost 1,000). The peak number of yearly *Geltstage* was reached in 1855. Even against the backdrop of a growing population, it is remarkable that this level was nearly reached again in 1867 during the economic boom. It seems to be unclear if economic crises alone lead to a higher number of bankruptcies in 19th century Bern.

Another way to gauge how established the *Geltstag* was during the 19th century is to compare the number of people who experienced bankruptcy between 1832 and 1874 with the population of Bern in 1875. A contemporary analysis estimated that around 24,000 *Geltstager*² were still alive in 1875 which represented about 5% of the population. In comparison with the rest of the population, a higher percentage of *Geltstager* were married, averaged 38.4 in age and on the average were expected to live 28.7 years after the end of the process (Chatelanat, 1875; Stemmer, 1952: 140).

In the 19th century, the regulation of household bankruptcies was seen as an important task. Legislators tried to respond to the variety of social, political and economic changes by adapting the law underlying the *Geltstag* in several steps from 1750 to 1892: the *alte bernische Gerichtssatzung* of 1761, the *Abänderungsgesetz* of 1823, the *Gesetzbuch über das gerichtliche Verfahren in bürgerlichen Rechtssachen* of 1850 and the *Abänderungsgesetz* of 1854 all changed aspects of the *Geltstag* procedure until the federal law was implemented in 1892 (Chatelanat, 1875: 65-73).

3. Why are the outcomes of legal bankruptcy procedures accepted?

The classic work referring to “legitimation by procedure” by Luhmann (1969) was published almost half a century ago. What is its current analytical value? The Swiss historian Caspar Hirschi

² People who underwent the process of a *Geltstag* were called *Geltstager*.

(2014) asked this question while examining the discussion surrounding the regulation of the financial system in the aftermath of the crisis of 2007-09. The influence of personal trust is limited in modern societies and increasingly needs to be replaced by systemic trust. For Luhmann (1969) procedures are one of the mechanisms that can produce such systemic trust (“Systemvertrauen”). Hirschi (2014) comes to the conclusion that today’s (perhaps postmodern) society cannot hope to prevent future crises by establishing stricter and more complex procedures. Instead he describes the systemic compulsion towards more and more regulation as an institutionalization of rituals that generate legitimation by only simulating procedures.

This paper utilizes of Luhmann’s concept (1969) to analyze the *Geltstag* procedure during the earlier transformation from premodern to modern times. North (1991: 100-101) describes the evolution of western societies before they reach the “final stage” and states that they “need effective, impersonal contract enforcement, because personal ties, voluntaristic constraints, and ostracism are no longer effective as more complex impersonal forms of exchange emerge”. Early modern historians have often employed the concept of “legitimation by procedure” for their research (see Stollberg-Rilinger and Krischer 2010) of early modern decision making processes in the form of procedures, negotiations or by the government. Luhmann (1969) also signalled awareness of the changes in society from premodern to modern times and their meaning for the constitution of procedures. The German sociologist Hendrik Vollmer suggested focusing on the importance of knowledge and its transfer in the production of socially acceptable decisions. In doing so, the sociology of knowledge can be combined with the analytical framework of “legitimation by procedure” (Vollmer, 1996: 147). This approach makes particular sense for the analysis of the *Geltstag* procedure during the transformative era between 1750 and 1900.

In April of 1890, Johann Rudolf Walther, the owner and barkeeper of *Der Römer*, declared himself unable to settle his debts and asked the authorities to conduct a *Geltstag*. 32 of his former guests owed him a combined sum of 323.75 Swiss Francs which made up a third of his wealth and he did not see any way to collect these debts. This classic case of insolvency led to Mr. Walther’s bankruptcy. But why did he and his creditors accept the terms of bankruptcy according to the conclusions drawn by the following *Geltstag*? In a wider sense, the question is

how procedural decisions can foster legitimation and social acceptance?³ Luhmann (1969) offers an answer to this question by pointing to „legitimation by procedure“. Accordingly, this paper draws on Luhmann’s concept in combination with elements of “The Social Construction of Reality” by Berger/Luckmann (1966) in regard to the social institution *Geltstag*.

Luhmann (1969) developed a theory to explain how social systems such as legal procedures, elections, legislation and administration function without presupposing that they are in search of truth. Instead, “truth” should be seen as a social mechanism that serves certain functions. As such, this social mechanism can help reduce complexity and improve the orientation of individuals in an overly complex world. The question of “legitimation by procedure” becomes more essential the more modern societies become. For Berger/Luckmann (1969: 30) one of the decisive questions a sociology of knowledge should ask is, “How is it possible that subjective meanings become objective facticities?”

Through procedures, the selective achievements of others can be taken on in their intended sense and in no other way. This kind of transfer through social mechanisms leads to the construction of reality (“Realitätskonstruktion”). With reference to Berger/Luckmann (1966) Luhmann (1969: 23) explains that this kind of social construction of reality also takes place in societies before the beginning of modern history. An additional achievement of communicative behavior in procedures is to group a secured sense of meaning in a way that limits the decision-making scope. Power is another mechanism that can transfer selective achievements that were generated by prior decision making. With power, others can be motivated to assume behavioral assumptions as binding. This transfer cannot rely on being seen as an essential consequence of the state of the world – like “truth” – but must be recognized as a decision. Selection processes that are based on decisions alone need special reasons to be accepted. Procedures are capable of creating these additional reasons for the acceptance of decisions without force (Luhmann, 1969: 23-26). Luhmann (1969: 28) defines this kind of acceptance of legitimation as a generalized willingness to tolerate decisions which are yet indeterminate in content. Participants of and people affected by a procedure must adopt the decisions as a premise of their own behavior and restructure their expectations accordingly. A learning process that leads to a

³ The terms “legitimation” and “acceptance” are used interchangeably. Luhmann (1969: 31-34, 49) himself often uses “akzeptieren”.

change in an individual's processing of experiences, his or her selection of actions and self-portrayal is a fundamental component. Through successful learning, new expectations altered by a procedural decision are treated as self-evident. Such acceptance is based on a social climate that institutionalizes the recognition of decisions as matter of fact (Luhmann, 1969: 33-34).

The outcome of a procedure and its consequences must be uncertain. In addition, the procedural openness must allow for undetermined behavioral alternatives. It is not a pre-shaped form or an appropriate gesture or word that advances a procedure but selective decisions of the participants that eliminate alternatives, reduce complexity, absorb uncertainty and shape the undetermined complexity of all possibilities into a tangible problem. Eliminated possibilities remain part of the procedural experience in a negated form. The procedure progresses as a sequence of decisions in which each partial decision by a participant turns into a fact that influences other participants decision making and structures the common situation, without mechanically triggering the next steps (Luhmann, 1969:40).

As a social system, each procedure has its own history that is distinguished from general history. On the one hand, this makes it possible for participants to change their past, on the other hand, the distinguished procedural history ("Verfahrensgeschichte") develops a life of its own in which the options otherwise available in the world are restricted. The formation of specific procedural roles causes a division of roles between the procedure and its environment and a differentiation of the procedure from society. This division of roles filters participants motivations originating from societal roles by determining what accounts for senseless behavior over the course of the procedure. The division of roles also helps in relieving outside responsibilities of participants. This relative autonomy regarding behavior and roles contributes to the social generalizability of the procedure's outcome which is necessary because individuals can only accept decisions with the support of their environment (Luhmann, 1969: 44-49).

This social environment or climate can be described as helping in the social construction of reality by the production and diffusion of knowledge. Knowledge is socially distributed by language that as a sign system, helps in the objectivation of meaning in everyday life. Individuals and other members of society take this knowledge of everyday life for granted as long as knowledge works satisfactorily and doubts are suspended (Berger/Luckmann, 1966: 49-58). Language provides "the fundamental superimposition of logic on the objectivated social world".

The logic attributed to institutions is part of the socially available stock of knowledge and influences the actions of individuals but also their success in interacting in a conforming or deviant way (Berger/Luckmann, 1966: 82-85). The social distribution of institutional logic is also achieved because dramatic parts of each procedure are geared towards the nonparticipating audience ("Publikum"). The audience must be convinced that if necessary, the institution in question would afford them the same rights. If this attitude is established, an individual protest against a decision will not gain support. For this to happen, the procedure needs to be perceptible but only in the form of common knowledge of the ongoing occurrence of such procedures and the theoretical option of educating oneself in regard to the proceedings at any time (Luhmann, 1969: 123-124).

4. The *Geltstag* procedure

The following comparison of "legitimation by procedure" with the *Geltstag* procedure in the 18th and 19th centuries will concentrate on three aspects: Who does a *Geltstag* deal with and how is reliable information exchanged? How does each *Geltstag* succeed in the necessary reduction of complexity? And in which ways is the procedural openness and uncertainty of outcomes guaranteed?

On the most fundamental level, the participants of a *Geltstag* are the debtor, creditor(s) and the persons commissioned with the implementation of the procedure. The debtor need not be a defaulter, his position could also have been taken over by heirs who renounced their inheritance. The creditors might have initialized the procedure or were only informed of the bankruptcy at a more or less convenient time. In the 19th century, all citizens were obliged to abide by a commission acting as liquidator. In many cases, neighbors or specialists were paid to help with the valuation. This meant that they often received an intimate look into the homes of debtors and were perhaps able to deduct the behavior preceding a bankruptcy. The allotted day on which the public auction of the *Geltstag* was performed transformed the role nonparticipants played. In some circumstances they might have been able to influence the procedural outcome by bidding to determine the value of a debtor's assets. The immortalization of the *Geltstag* by Jeremias Gotthelf's novel "*Der Geldstag: oder: Die Wirthschaft nach der neuen Mode*" can be

viewed as aiding the dramatization of the procedure for nonparticipants. Gotthelf used literary methods to criticize perceived phenomena such as an eroding legal consciousness, widespread addiction to money and property, the wrongdoings of usurers and lawyers and the undermining of a sense of family that all could supposedly end in bankruptcy.

Obtaining legal support was not required. In 1840 a guide for creditors published was published specifically to allow everyone to adequately represent their claims without legal counsel. In its introduction, the *Anleitung für Gläubiger* explicitly addressed people such as tradesmen, artists and craftsmen who supposedly had no knowledge of relevant laws (Anonymous, 1840: 3-4). The existence of this guide illustrates the well-advanced acceptance and institutionalization of the *Geltstag*. Until 1854 the debtor and creditor were even allowed to negotiate their own terms and a *Geltstag* was only put into effect if they could not reach an agreement. With the *Abänderungsgesetz* of 1854, a judge had to impose a *Geltstag* (König, 1880: 182).

The reduction of complexity by a *Geltstag* procedure was achieved through its autonomy and an ongoing selection process. Each *Geltstag* relied on a predetermined time structure, established a certain way of conduct while still allowing scope for decision-making by participants and established distance to the social environment that maintained asymmetries of power. This resulted in the construction of a specific procedural history that is a central part of the social construction of a new reality. In the second half of the 19th century, forms were introduced to record the initial items of a bankruptcy inventory and also structured the way information regarding the conflicting parties was collected. Phrases to use, for example, when a debtor asked for an extension to settle with his creditors were also included. For creditors, it was of great importance how their claims were classified. In 1840, six creditor classes existed but the rank of certain debts such as a dowry was often publicly debated. Contemporary sources frequently faulted creditors who were not able to prove their claims (Anonymous, 1840: 10-15). From the perspective of a reduction of complexity, this can be seen as an effort to simplify the creditor's network of credit before the actual procedure began. From 1850 on the question of fraudulent behavior had to be posed and investigated. If, for example, signs of wrongdoing on part of the debtor were detected, a criminal investigation was initiated.

The openness and the uncertain outcome of the *Geltstag* was guaranteed by several elements. Next to the commission of supposedly unbiased liquidators and neighbors or experts who accurately valued the debtor's assets, public auctioning introduced an element of uncertainty. Assessed items had to be sold at their estimated price or higher and the outcome of the auction determined the value of the bankruptcy estate. It is plausible that uncontrollable factors such as the social network or family and business ties of the debtor influenced the bidding. For the debtor, a motivating factor for participating in a *Geltstag* might have been the provisional aspect. If the estate value proved to be large enough after inventory and public auction to settle all the debts, the *Geltstag* was terminated. Between 1832 and 1874⁴ around 17% of the *Geltstag* procedures remained provisional (Chatelanat, 1875: 79).

Another interesting observation concerns the changes in the composition of bankrupts and the related asset and liability structure over time. Over the course of the second half of the 19th century, the number of *Geltstager* who earned their living in agriculture declined while the share of people working in industry and trade increased (Chatelanat, 1875: 77). Homeownership among bankrupts changed over the course of the 19th century as well. The percentage of homeowners was higher than 50% in 1800 and reduced to less than 10% in 1890. At the same time, the proportion of property value as part of the entire wealth of bankrupts grew from less than 40% to more than 85% (own calculation). These changes in the composition of bankrupts suggest that the social impact of the *Geltstag* might have shifted over time as new actors utilized the institution.

5. Conclusion

Luhmann (1969) and Berger/Luckmann (1966) provide a helpful analytic framework to interpret the Bernese *Geltstag* of the 18th and 19th centuries. The concept of "legitimation by procedure" provides productive input to explain the resilience of the *Geltstag* in particular. Thanks to legitimation and social acceptance, the procedures generated by the *Geltstag* resulted in a resilient bankruptcy institution that was able to navigate dramatic political, social and economic change during a transformative period.

⁴ Relevant statistics are available for this time period.

Legitimacy was acquired because the *Geltstag* managed to create a social environment conducive to accepting outcomes of bankruptcy settlements. Debtor, creditor and liquidator were motivated to cooperatively seek the fulfillment of their rights and claims by participative elements. By applying the concept of “legitimation by procedure” the paper shows that the main institutional characteristics of the *Geltstag* can be summarized as follows:

(1) A participatory inclusion of creditor, debtor, liquidator and third parties and the social distribution of pertinent knowledge through different available channels.

(2) A reduction of complexity through, among other factors, a clear time plan, requirements for proving claims, the suppression of asymmetries of power and third party investigations into fraud.

(3) The openness and the uncertainty regarding the outcome of the process due to the provisional nature of the *Geltstag* and the inclusion of a public auction.

The *Geltstag* from its origins in the 16th century experienced incremental changes in laws and functions over centuries. This development helped the *Geltstag* to effect the social construction of reality. From an institutional aspect, the *Geltstag* helped to reduce uncertainty in exchange relationships and increase the benefits of cooperative solutions and the costs of defecting.

Calder (1999: 303) emphasizes the disciplinary effects of debt in modern consumer societies, i.e., that debt pushes people to work harder, when he refers to the bumper sticker “I owe, I owe; it’s off to work I go!”. Studying the bankruptcy institution *Geltstag* adds further dimensions. The *Geltstag* regulated debt exchanges in a way that they constituted desirable economic activity. The *Geltstag* assured that the possible negative outcome of a debt relationship – bankruptcy – did not amount to the end of the debtor’s economic life or represent an uncontrollable risk for creditors.

References

Primary Sources

Anonymous (1840). *Verfahren in Geldstagen im Kanton Bern und Anleitung für Gläubiger, ihre Rechte und Ansprüche in denselben selbst besorgen zu können*, Bern.

Chatelanaat, A. (1875), "Statistik der Konkurse (Geldstage) im Kanton Bern in juristischer und volkswirtschaftlicher Beziehung: Mit spezieller Berücksichtigung der Stimmrechtsfrage", *Zeitschrift für Schweizerische Statistik*, 11(2): 65-91.

König, K. (1880), *Die im Kanton Bern geltenden kantonalen und eidgenössischen Gesetze über das gerichtliche Verfahren in bürgerlichen Rechtsstreitigkeiten und das Vollziehungsverfahren in Schuldsachen*, Bern: Wyss.

Secondary Sources

Berger, P. and T. Luckmann (1966), *The Social Construction of Reality: A Treatise in the Sociology of Knowledge*, London: Penguin Books, 1991.

BERNHIST (online database).

Calder, L. (1999), *Financing the American Dream: A Cultural History of Consumer Credit*, Princeton, NJ: Princeton University Press.

Hirschi, C. (2014, January 08), Transparenz ist nur eine andere Form von Intransparenz, *Frankfurter Allgemeine Zeitung*, p. N4.

Kuttner, R. (2013), *Debtors' Prison: The Politics of Austerity versus Possibility*, New York: Vintage, 2015.

Lerner, M. (2012), *A Laboratory of Liberty: The transformation of Political Culture in Republican Switzerland, 1750-1848*, Leiden/Boston: Brill.

Luhmann, N. (1969), *Legitimation durch Verfahren*, Frankfurt/M.: Suhrkamp, 2013.

Meyer, E. (1913), *Über das Schuldrecht der deutschen Schweiz in der Zeit des XIII. Bis XVII. Jahrhunderts*, Breslau: Marcus.

North, D. (1991), "Institutions", *Journal of Economic Perspectives*, 5(1): 97–110.

Pfister, U. (1995), *Im Strom der Modernisierung: Bevölkerung, Wirtschaft und Umwelt 1700-1914*, Bern: Historischer Verein des Kantons Bern.

- Rennefahrt, H. (1933), *Grundzüge der bernischen Rechtsgeschichte: III. Teil*, Bern: Stämpfli & Cie.
- Ritzmann, F. (1973), *Die Schweizer Banken: Geschichte – Theorie – Statistik*, Bern/Stuttgart:
Haupt.
- Safley, M. (2013), "Introduction: A History of Bankruptcy and Bankruptcy in History", in M. Safley (ed.), *The History of Bankruptcy: Economic, Social and Cultural Implications in Early Modern Europe*, London/New York: Routledge.
- Stemmer, E. (1952), *Konkurs und Wirtschaft: Eine kritische Untersuchung des Vollstreckungsrechtes vom ökonomischen Standpunkt*, Basel: von Helbing & Lichtenhahn.
- Stollberg-Rilinger, B. and A. Krischer (2010, eds.), *Herstellung und Darstellung von Entscheidungen: Verfahren, Verwalten und Verhandeln in der Vormoderne*, Berlin:
Duncker & Humblot.
- Suter, M. (2016), *Rechtstrieb: Schulden und Vollstreckung im liberalen Kapitalismus 1800-1900*, Konstanz: Konstanz University Press.
- Tanner, J., B. Studer and M. Hiestand (2012), "Konsum und Distribution", in: P. Halbeisen, M. Müller and B. Veyrassat (eds.), *Wirtschaftsgeschichte der Schweiz im 20. Jahrhundert*, Basel: Schwabe.
- United States (2011), *The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States*, DC: Financial Crisis Inquiry Commission.
- Vollmer, H. (1996), "Akzeptanzbeschaffung: Verfahren und Verhandlungen", *Zeitschrift für Soziologie*, 25(2): 147-164.