

Certificate of Discharge: Bankruptcy and Debtors' Rights in Eighteenth Century England

Until the passing of Anne 4&5 in 1706, bankruptcy statutes in England were punitive. Commissioners seized, sold and distributed all of a bankrupt's assets to the creditors. In the event that debts owing were not fully covered, the creditors could dun a debtor into the future and unless all debts were paid, a person could not exit bankruptcy. Anne 4&5 allowed bankrupts to exit bankruptcy. In the event that four fifths of the creditors by value and number agreed, a certificate of discharge would be issued and all remaining debts voided. Hailed as a major transformation of the bankruptcy code and the introduction of rights for debtors, the certificate of discharge does indeed potentially provide such rights. At the same time, the creditors have to agree voluntarily to give away a future potential stream of income. This paper explores the extent to which there was a credible commitment to discharge resulting from the Anne legislation. Using the London Gazette in conjunction with the Bankruptcy Writ Docket Books, the paper estimates firstly the number of discharges given in annually and secondly asks how long it took for any given bankruptcy to receive a certificate of discharge.

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