

## **Abolition Is Not Just for Slavery: Abolishing Debtors' Prison in America by Changing Debt from Criminal to Circumstantial, 1830-1831**

“Never be afraid to raise your voice for honesty and truth and compassion against injustice and lying and greed. If people all over the world...would do this, it would change the earth.”

William Faulkner

*Since colonization of North America by the British, debtors prison was an important part of a working society. The opinion was that a debtor's inability to pay was a lack of moral uprightness, and thereby they must suffer for their sin in prison until the debt could be secured or until death took the debtor's life for payment. Critics who were not pleased with the system, which often left creditors without recourse to actually collect their debts, began to utilize the media to change public opinion. Their goal was to change the way a debt could be resolved, continuing to abolish imprisonment for debt in America with the state of New York in 1831. This paper explores the press coverage from 1830-1831 in the movement of the abolition of imprisonment for debt.*

On Tuesday, March 2, 1830, citizens in New York met at the Masonic Hall<sup>1</sup> to discuss resolutions to abolish imprisonment for debt. A conference called by advocates for the abolition of debtors' prisons voted unanimously for resolutions<sup>2</sup> including the understanding that misfortune should not be called a “criminal offense” and that no person should be justly “deprived of his liberty” for nonpayment of debt in honest circumstances.<sup>3</sup> This meeting was an important milestone in the process of abolition in the state of New York and throughout the United States. Led by James Herttell, Chairman and advocate for abolition, the committee resolved that “all mankind are born free, and with equal rights; that the right to life, and to personal liberty, cannot

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<sup>1</sup> “Abolishing Imprisonment for Debt,” *The New-York Morning Herald*, March 5, 1830, 1.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

be alienated nor abridged by virtue of any voluntary contract.”<sup>4</sup> Attendees agreed “that human life cannot be justly destroyed, nor human liberty rightfully restrained but for some criminal offence.”<sup>5</sup> It was also agreed that “the constitution is the supreme ‘law of the land,’ by virtue of which ‘no person shall be held to answer for his crime unless on presentment of a grand jury.’”<sup>6</sup>

Some felt that anything less than complete abolition was not good enough. Richard Mentor Johnson, member of the House of Representatives in 1830 and later the ninth vice president of the United States of America, said, “My opinion is fixed, that nothing short of total abolition of imprisonment for debt will preserve the sacred principle of freedom from violation.”<sup>7</sup> Daniel Webster, U.S. Senator from Massachusetts, spoke out against imprisonment for debt. He felt that it should be done away with in all cases “where there is no evidence of fraud.”<sup>8</sup> This significant meeting called upon all states to unite and act upon removing an extremely controversial law. The committee’s final verdict was that:

The law of imprisonment for debt ought to be abolished; and we hereby earnestly invite our fellow citizens throughout this and other States which have not already repealed the law in question, to unite and co-operate with us in the use of all fair and lawful means, to obliterate that foul blot which stains the pages of our statute book, dishonors the character of a free people, is inconsistent with the spirit of our republican institutions, and a reproach to the nation.<sup>9</sup>

Not everyone felt that the law should be abolished. Defenders of the law felt that loss of liberty was justified to give security of the creditor. They knew of no other way to ensure that the borrower would repay the creditor. These defenders were accused of “weighing human

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<sup>4</sup> “Abolishing Imprisonment for Debt,” 1.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> R. M. Johnson, “Imprisonment for Debt,” *United States Telegraph* [Washington, DC], Jan 27, 1830, 1.

<sup>8</sup> Daniel Webster. “Imprisonment for Debt,” *Observer and Telegraph* [Hudson, OH], Jan 27, 1831, 1.

<sup>9</sup> Ibid.

liberty against dollars and cents”.<sup>10</sup> *The New-York Morning Herald* printed an article demanding that a new process be created. *The Herald* did not see how the defenders could argue the case by saying it was an extra security. It could be argued that a man should be sold to pay his debts; just because it is a security to the debtor does not justify it. “Suppose it were lawful, when a man has not wherewithal to satisfy his creditors, to sell him and his family for slaves, in order to satisfy justice.”<sup>11</sup> *The Herald* wrote that it may be an extra security to the creditors, but that did not make it moral.

Suppose, for a moment, that it were, as they say, an additional security. It by no means follows that it is just or proper. It might be an additional security that the insolvent debtor should be hanged, or put to torture; nay, it is certain, that this would make people much more cautious in contracting debts, and much more careful in meeting them.<sup>12</sup>

In the early 1800s the young nation was in the throes of imprisonment for debt. By 1830, Massachusetts, Maryland, New York, and Pennsylvania had “three to five times as many persons imprisoned for debt as for a crime.”<sup>13</sup> Methods were in place where immediately upon default of a bond; the creditor could imprison the debtor and take possession of his belongings to satisfy the debt. If their property could not satisfy the debt, they would remain imprisoned until the debt was paid.<sup>14</sup>

Reluctance to support the issue marked a clear departure from the influence of Great Britain, which exported the idea of debtors’ prisons to America. The idea of debtors being imprisoned for inability to pay had come with early colonists: “From Charles Dickens, who was

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<sup>10</sup> “Imprisonment for Debt,” *The New-York Morning Herald*, Feb 23, 1830, 1.

<sup>11</sup> “Imprisonment for Debt,” *The New-York Morning Herald*, Feb 23, 1830, 1.

<sup>12</sup> *Ibid.*

<sup>13</sup> Vern Countryman. *Cases and Materials on Debtor and Creditor*, Boston and Toronto: Little, Brown and Company, 1964, 77.

<sup>14</sup> *Ibid.*, 75.

inspired to write several classic novels based on the inspiration of his father who was imprisoned in England's infamous Marshalsea prison in the early eighteenth-century, to references in Shakespeare's "King Lear," the topic of debt was usually referenced as a tale of immorality or of misfortune."<sup>15</sup> Englishmen began to dislike the idea as much as Americans and elimination of the act of imprisonment for debt in Great Britain would follow America's.<sup>16</sup>

In America between 1800 and 1830 "periodic economic depressions became a feature of the nation's economy."<sup>17</sup> Under these circumstances poverty was widespread. War created industry but when the war ended, the economy struggled. "The War of 1812 gave an impetus to industrial development, creating new industries in cities and small towns, but after the war of 1812 and the wars in Europe ended, the American economy suffered a serious downturn. The first major American depression (1816) brought hard times to most American cities."<sup>18</sup> This caused thousands of small businessmen as well as farmers to be cast in prison for debt. The prisons became laden with debtors. "In 1830 there were more than ten thousand people incarcerated in New York City's debtors' prison, this at a time when the total population of the city was less than 150 thousand souls. More than half were there for debts of less than 25 dollars."<sup>19</sup>

The press played a vital part in the developing of opinions. It was routine to see an article titled "*Imprisonment for Debt*" and stories from the gaol (jail) throughout the newspapers. Some of these articles were letters to the editors or updates on the legislative processes of

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<sup>15</sup> Kevin Armstrong. "Debtors Prison," 1, accessed June 26, 2012, <http://www.cucollector.com/Debtors-Prison.php>.

<sup>16</sup> Ibid.

<sup>17</sup> *The Social Work History Station*, Boise State University, accessed July 10, 2012. <http://www.boisestate.edu/socwork/dhuff/us/chapters/Chapter%203.htm>

<sup>18</sup> *The Social Work History Station*, 3.

<sup>19</sup> Ibid.

different states. They often contained stories of “feudal barbarism”<sup>20</sup> which were emotional tales of men unable to pay as little as two cents<sup>21</sup> and the sad state their families found themselves in without the “industry” of the head of household to care for them.<sup>22</sup> By 1830, advocates for abolition used the press to publicize such atrocities through letters to editors, raising awareness of the cruelties. Often they mentioned women and Revolutionary War veterans to persuade readers to side with them on abolishment of debt imprisonment; such emotional appeals eventually persuaded the public. “Overcrowded jails soon became a public scandal as well as a health menace.”<sup>23</sup> The public became aware of the situation through the media and some felt it was “a place where man is degraded to the condition of a rat.”<sup>24</sup>

Personal stories were especially effective. One story in the *Daily National Intelligencer* in 1818 told about a young man named Brown who was “cast into the prison of this city for debt.” The storyteller informs the reader that Brown was intelligent and genuine, and that he was told that one of his creditors refused to agree to discharge him from the debtor’s prison and the creditor had made a “solemn oath before his God to keep Brown in jail ‘til he rotted!” At receiving this information, the storyteller wrote, “I thought I saw the cheering spirit of hope, desert him forever.”

Prisoners were often helpless if their families needed them. The only pleasure for Brown was the daily visits from his wife. One day a messenger brought news that Mrs. Brown was “very dangerously ill and supposed to be dying in a convulsive fit.” Brown “darted to the door

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<sup>20</sup>“Imprisonment for debt,” *Raleigh Register* [Raleigh, NC], Jan 22, 1819, 1.

<sup>21</sup>“Imprisonment for Debt,” *Mechanics’ Free Press* [Philadelphia, PA], Dec 25, 1830.

<sup>22</sup> “Original Communications, Imprisonment for Debt,” *Freedom’s Journal* [New York], Oct 31, 1828.

<sup>23</sup> Peter J. Coleman. “*Debtors and Creditors in America: Insolvency, Imprisonment for Debt, and Bankruptcy, 1607-1900*,” Madison, WI: The State Historical Society of Wisconsin, 1974, 106.

<sup>24</sup> “A Turks thought on Imprisonment for Debt,” *Maryland Gazette*, April 29, 1830.

with the rapidity of lightning. The inner door was open and the jailer, who had just let someone in, was closing it as he passed violently through it.” The jailer knocked him over the head and “he was carried lifeless, and covered in blood, to his cell.” “Mrs. Brown died and her husband was denied even the sad privilege of closing her eyes.” And after some time, being called to his bed “and gazing on me, while a faint smile played upon his lips, he said he believed ‘death was more kind than his creditors.’ And after a few convulsive struggles, he expired.”<sup>25</sup> The article ended with a cry of injustice questioning what benefit it was to creditors to take this young man’s life:

Legislators and sages of America! Permit me to ask you—how much benefit has that creditor derived from the imprisonment and consequent death of an amiable man, in the bloom of youth, whom without this cruelty, might have flourished even now, an ornament and glory to the nation.<sup>26</sup>

Debtors’ prisons held not only the poor and destitute, but also two men who signed the Declaration of Independence: Robert Morris and James Wilson. Morris was a member of the Continental Congress who supervised the finances of the Revolutionary War “largely on the basis of his personal credit.” When a land speculation venture failed, he spent three years imprisoned for debt and died, virtually a pauper.

Wilson was one of the six men who signed both the Declaration of Independence and the Constitution.<sup>27</sup> He was also a member of the Continental Congress and a justice in the Supreme Court. He had hoped to become the Chief Justice, but when debts came due from the same failed land venture as Morris, he was imprisoned in New Jersey for a short time.<sup>28</sup> After being released he fled to North Carolina and could not return to his post as Court justice for fear his creditors

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<sup>25</sup> “Imprisonment for Debt,” *Daily National Intelligencer* [Washington, DC] July 18, 1818, 1.

<sup>26</sup> *Ibid.*

<sup>27</sup> The Forum, “James Wilson and the American Constitution,” accessed on July 19, 2012.

[http://oll.libertyfund.org/index.php?Itemid=287&id=1157&option=com\\_content&task=view](http://oll.libertyfund.org/index.php?Itemid=287&id=1157&option=com_content&task=view)

<sup>28</sup> *Ibid.*

would place him back in prison. They eventually did, and upon release he took up residence in “Horniblow Tavern and died financially ruined.”<sup>29</sup>

It was often that a man would emerge from debtors prison changed and, according to the opinions of Thomas Bradford Jr. Esq. of Philadelphia, would no longer be an asset to the community. Bradford had been an inspector of a prison for debtors and “witnessed the evils resulting from imprisonment for debt.” He said “the debtor becomes reckless of character, dissolute, and ruined in many instances, and returns to society its bane and curse.”<sup>30</sup> Thomas Rodney, officer of the Revolution, member of the Continental Congress, and a judge of the Supreme Court of Delaware, kept “voluminous” journals where he recorded everything “from the smallest slights to his dignity to the accounts of his dreams.”<sup>31</sup> However, there are fourteen months missing, which he spent imprisoned for debt. “When his journals resume, they depict a bitter, impoverished man, steeped in resentment and humiliation.”<sup>32</sup>

Before 1830 it was common for women to be imprisoned as well. Mary Bellamy lost her husband who had been a trader and “was left with numerous debts and eight small children.” She tried to repay her husband’s debts for nine years but failed, suffering “a long imprisonment in the common gaol.”<sup>33</sup> When prisons reached capacity, jailers would be forced to put men and women in the same cells. This caused a storm of commotion and the legislators in many states passed laws which forbade the imprisonment of women for debt.<sup>34</sup>

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<sup>29</sup> The Forum, “James Wilson and the American Constitution.”

<sup>30</sup> “Imprisonment for Debt,” *United States’ Telegraph* [Washington, DC], Jan 27, 1830.

<sup>31</sup> Bruce H. Mann. *Republic of debtors: bankruptcy in the age of American independence*. Cambridge, Mass.: Harvard University Press, 2002, 78.

<sup>32</sup> *Ibid*, 79.

<sup>33</sup> *Ibid*, 73.

<sup>34</sup> “Imprisonment for Debt,” *The New-York Morning Herald*, April 5, 1830, 1.

The families of the debtors were often left destitute. The creditors would take almost all possessions of worth to pay the debt, apart from a few exceptions that were protected by law, such as basic clothing, furniture, and household goods.<sup>35</sup> If there other possessions were not enough to cover the cost, the debtor would remain imprisoned. This process frequently left the families in ruins, without their providers to offer sustenance. In a letter written to the editor and printed in *Freedom's Journal*, the author writes of injustices he has witnessed while his services have been called upon to assist those who have been incarcerated. He writes, speaking for the prisoner and the difficulties the situation has caused the debtor's family: "Oh, for myself I can bear it, but for my wife and children!" He describes the anguish it caused the debtor not to be able to assist his family and he described the tenderness it caused when he saw "the tear start in [the prisoner's] eye!"<sup>36</sup> He continues to describe the destitute state in which he found the families, having lost all "save a few chattels which the law protects."<sup>37</sup> He visited the debtor's wife and although she had lost everything to the creditors, she felt that all would be okay if her husband could be returned:

All that my dear parents gave me, as memorial of their affection, has been torn from us; and as if that were not enough they have taken away our only earthly supporter and protector, my devoted husband, and this kind father of these children. Could his liberty be restored, we could forget all the rest, and be happy. His industry would soon make us comfortable.<sup>38</sup>

The role of charity in debtors' prisons would be invaluable. "The irony of debtor's prison is that the prisoners were charged for room and board and were expected to repay the debts while provided no means to earn it. Re-compensation, for those lucky enough to pay it, usually came

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<sup>35</sup> Balleisen, *Navigating Failure*, 12.

<sup>36</sup> "Original Communications, Imprisonment for Debt," *Freedom's Journal* [New York], October 31, 1828, 1.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*



from family members or others with a vested interest in the debtor's freedom."<sup>39</sup> John P. Roome, keeper of a New York debtor's prison reports in the *New York Spectator* a long list of donations that were recently given to assist the poor debtors in his jail. These included items like mattresses and pillows, loads of wood, provisions from butchers and fishermen, old shirts and old shoes, as well as cash donations.<sup>40</sup> In the same article a letter was published from an anonymous donor to help make the authors point. The letter asked the jailer to use the money he had donated to give relief to those imprisoned for small debts. "May I therefore beg that you will have it applied to the release of one or more of the small debtors, if the sum be sufficient for that purpose or for the purpose of food or fuel for the whole."<sup>41</sup> A certificate to prove the case of charity was printed in the *Daily National Intelligencer*. The Humane Society assisted those in prison and kept them from starving.

During the last year there were committed to said prison, for debts under twenty five dollars, seven hundred and twenty nine persons! That nearly all of them must have starved, but for the bounties of the Humane Society and individual charity, and that [the jailer] is compelled to beg for fuel to keep them from freezing.<sup>42</sup>

Charity was not always enough to save those who were imprisoned. The next three documents describe cases of imprisoned men who were cared for through charity. Document four describes "the case of Dius Lyman." He was imprisoned three years, until he died, all for a debt under fifty dollars. Document five details the "case of George Riley, who was imprisoned

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<sup>39</sup> Armstrong. "Debtors Prison," 1.

<sup>40</sup> "The Following Donations has been received," *New York Spectator*, Jan 4, 1828, 1.

<sup>41</sup> Ibid.

<sup>42</sup> "Documents submitted to the Senate," *Daily National Intelligencer*, 1.

for fifty dollars and remained for six years. During the entirety of their imprisonment both men were “fed by the Humane Society.”<sup>43</sup>

Most debtors like Dius Lyman and George Riley had small debts. In documents submitted to the Senate on the case of abolition was a certificate that lists the number of those imprisoned for under fifty dollars. “There were committed to said gaol, during 1816, for debts under fifty dollars, one thousand one hundred and twenty nine persons!”<sup>44</sup> Another of those documents “narrates the case of Paul Harrison, imprisoned for 25 dollars, [and] who died in gaol.”<sup>45</sup>

Disallowing those with small debts from being imprisoned would make the law functional and fair. In a letter to the *Observer and Telegraph*, U.S. Senator Daniel Webster specified “three simple provisions”<sup>46</sup> that would allow the system to be more effective and resolve “nineteen twentieths” of the evils. First he stated that imprisonment “should not be allowed for debts fewer than 30 dollars.” Second, there should not be a mandatory thirty days “as preliminary to take the poor debtor’s oath.” Third, a creditor should “investigate” new property charges before bringing them to court.<sup>47</sup> He believed other provisions would be useful as well, including disallowing imprisonment of women for debt. He believed it was “barbarism which ought not to be tolerated.”<sup>48</sup> *The Daily National Intelligencer* printed an article in support of the provisions Webster had proposed. They believed that it would benefit everyone if the “recovery of small debts were abolished.”<sup>49</sup> In an article in *The New-York Morning Herald* it

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<sup>43</sup> Ibid.

<sup>44</sup> “Documents submitted to the Senate,” *Daily National Intelligencer*, 1.

<sup>45</sup> Ibid.

<sup>46</sup> Daniel Webster. “Imprisonment for Debt,” 1.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> “Imprisonment for Debt,” *Daily National Intelligencer* [Washington, DC], Nov 23, 1830.

was reported that the number imprisoned in debtor's prison in the city of New York from June 6, 1829-February 24, 1830 was 817. From that group "80 had debts less than 1 dollar, 233 above 1 dollar and less than 5, 174 above 5 dollars and less than 10, 140 above 10 dollars and less than 20, 442 above 20 and below 100, 98 above 100 dollars."<sup>50</sup> The worth of a dollar in 1830 would be valued at \$20.36 today.<sup>51</sup>

Ineffectiveness was an important argument against imprisonment for debt. A debtor who was imprisoned could not work and therefore could not pay off the debt. Silas W. Robbins, a circuit court judge in Kentucky, gave his opinion of the situation and felt that it must gratify the creditor to seek vengeance on the debtor. He also felt that "it deprives the family of his exertions for their maintenance, and society of the product of his labor."<sup>52</sup> The majority of debtors imprisoned were men who were poor and needed to work to support themselves and their families. Being imprisoned kept them from this. The *Raleigh Register* printed the argument:

Is it that the delinquent will be better able to pay his debts, after being confined a few months or a year in the pestilential damps of a prison? Or is imprisonment exacted as an equivalent for the debt itself?<sup>53</sup>

The author goes on to answer the posed questions by stating that none of these goals are met by imprisoning debtors.

Not the former, because by being confined he is necessarily prevented from prosecuting any lucrative profession, and as has been truly said, society loses what his labor would be worth. Not the latter, because he becomes again liable for the amount of his enlargement. Hence the punishment is unjust, without affecting any one object for which penalties were invented. The public is not

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<sup>50</sup> "Imprisonment for Debt," *The New-York Morning Herald*, April 5, 1830, 1.

<sup>51</sup> My Kindred.com. "Comparative Value of the U.S. Dollar," accessed on June 26, 2012, <http://mykindred.com/cloud/TX/Documents/dollar/>

<sup>52</sup> "Imprisonment for debt," *Daily National Intelligencer* [Washington, DC], March 22, 1833.

<sup>53</sup> "Imprisonment for Debt," *Raleigh Register*.

benefited-the creditor generally loses his money irrecoverably, and the debtor is frequently turned out upon the world a desperado or a beggar.<sup>54</sup>

Abolitionists continued to argue their case that enforcing the law was often more costly than productive. Congressman R.M. Johnson, who assisted Kentucky in abolition of imprisonment for debt, said that the state would have spent “a million dollars...in rigorous execution of the laws of imprisonment for debt,”<sup>55</sup> had imprisonment for debt continued and now that abolition has occurred “the system of credit was never more sound and healthy.”<sup>56</sup> In another article it is mentioned that 252 imprisoned debtors owed a total of 663 dollars and the cost of confinement was 448 dollars.<sup>57</sup> The *Daily National Intelligencer* published a document highlighting the cost associated with small debts. Benjamin Remington had been arrested for a debt of 54 cents and the total cost to process that arrest was \$14.45.<sup>58</sup> The cost to process was more than 28 times the cost of the debt and was often expected to be paid by the debtor.

There had to be a better way to secure creditors would receive repayment. Frank T. Carlton, who published a study on the abolition of imprisonment for debt, believed that the abolitionists were pitted against the lenders to come up with a “more humane way of treating a debtor whose inability to pay would land them in a debtor’s prison.”<sup>59</sup> Herttell declared that the system was failing. His view being that creditors have lost faith in the law of imprisonment for debt “as efficient means to coerce their debtors to make their payments that, hopeless of success, they have for some time past, been gradually declining to seek or expect to obtain justice through

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<sup>54</sup> Ibid.

<sup>55</sup> “The Following Letter,” *Mechanics’ Free Press* [Philadelphia, PA], March 27, 1830, 1.

<sup>56</sup> Ibid.

<sup>57</sup> “Imprisonment for Debt,” 1.

<sup>58</sup> “Imprisonment for Debt,” *Daily National Intelligencer* [Washington, DC], Nov 23, 1830.

<sup>59</sup> Coleman. “*Debtors and Creditors*,” xi.

that channel.”<sup>60</sup> Herttell stated that it was necessary to come up with new laws to replace the ones riddled with so many exemptions that they were no longer effective and were causing “social and mercantile demoralization.”<sup>61</sup>

The North versus South argument also figured in the fight. Newspapers used emotions already heightened because of slavery to fight the battle on imprisonment for debt. Citizens in the Northern states expressed a sense of superiority over the Southern states because they did not practice slavery. The *Boston Courier* used that against them and printed an article criticizing the North for their failure to act on debt imprisonment. They reported that in the year of 1829, Northern States imprisoned 2,742, while the same number of prisons in the Southern States imprisoned only 35.<sup>62</sup> They were used these numbers to show the extensive use of debtor’s prisons in the North compared to the South.

The press used superiority between states in the North as well, where any state moving the process of abolition forward were spoken of as better than the rest. Newspapers acknowledged the states that had begun legislation to end debtors’ prison, and criticized the states that had not acted. The *Courier* continued to point out laws in differing states that provided relief to debtors and abolition.<sup>63</sup> The newspaper highlighted a law in Massachusetts that forbade imprisonment for less than five dollars, and stated that a similar law in “other Northern and Middle States” would have kept four hundred and thirty one persons from jail, and that number is from just eighteen noted prisons. The main opposition to enacting an exemption law

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<sup>60</sup> Edwin T. Randall. *Imprisonment for Debt in America: Fact and Fiction*. The Mississippi Valley Historical Review, Vol. 39, No. 1 (June, 1952), 96.

<sup>61</sup> Ibid.

<sup>62</sup> “Imprisonment for Debt,” *Boston Courier*, December 6, 1830, 1.

<sup>63</sup> Ibid.

of less than five dollars “is said to have come from groceries and grog shops (liquor stores).”<sup>64</sup>

The *Courier* also mentions a law in New Hampshire, which does not allow imprisonment for less than \$13.33. A similar law in other “Northern and Middle States,” would have “saved” one thousand four hundred and fifty four from imprisonment and as mentioned before, in only eighteen prisons.<sup>65</sup>

Many state laws were highlighted in the newspapers, as well as how many persons would have been kept out of prison had each of those laws been enacted in other states. One of those was a law in Massachusetts that required the creditor to pay the jailers’ boarding fees. That law was said to reduce time spent in prison by one-third. Another is a law in South Carolina that demands the creditor make an oath that the debts were “true debts.”<sup>66</sup> This, “a very shrewd and observing jailer” believed, would prevent many small debts from being prosecuted.<sup>67</sup> Kentucky and Ohio, where imprisonment for debt was abolished, would have kept, during the last year, about fifty thousand people from prison, “as nearly as we can ascertain.”<sup>68</sup> This law gave the poor men the opportunity to work and pay their debts and support their families.

Almost all the prisoners, both those in close confinement, are poor men, men who have families to support, and who have not as much property in their hands as the law exempts from execution... Going to the goal of the enlightened city of New York, I have seen an American citizen (O sacred privilege of American citizenship in most places sacred! here trampled upon!) deprived of his liberty, without a crime...men ready to toil for their families, or bleed for their country!  
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During the process of legislation, the media often kept citizens informed of what was occurring. Printed summaries of documents that contained arguments for elimination appeared

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<sup>64</sup> Ibid.

<sup>65</sup> Imprisonment for Debt,” *Boston Courier*, 1.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> “Original Communications, Imprisonment for Debt,” 1.

in many newspapers. One of those submitted to the Senate of New York, and published in multiple newspapers, pointed out some of the many injustices taking place with regards to imprisonment for debt. The first document discusses the amount of imprisoned debtors in a New York City jail. It was a certificate of James Bell, keeper of the debtor's gaol in New York states, that there were committed to that prison, during the last year, for debt, *nineteen hundred and eighty four different persons*, and that there are now confined in said gaol and on its limits, *six hundred debtors, and upwards!*<sup>70</sup> Another one of the documents state that of the thirty debtors now confined, each has a "wife, and in the whole 73 children."<sup>71</sup>

While many fought for legislation to remove debtor's prison from the law books, the process of change was slow. The lack of enthusiasm on the parts of some of the lawmakers to act would enrage the press. Newspapers published warnings to politicians like the one in *The Albany Daily Advertiser*, and reprinted in *The New-York Morning Herald*, to be careful not to forget who helped them on the path they now enjoyed:

The Senate, yesterday, treated this subject with so much contempt, as to refuse the bill from the Assembly a second reading. This aristocratic branch of our government, not infrequently treats with the contumely and neglect the wants and wishes of those who warm them into political life: But their day of retribution will come.<sup>72</sup>

The abolishment of debtor's prison was a state by state process, and each state progressed at its own rate. Laws were enacted in Massachusetts to prevent creditors from arresting debtors in their homes. This caused many to become "prisoners in their own homes." Abijah Beach, a merchant, after being sued for debts became a prisoner in his own home for three years, causing

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<sup>70</sup> "Documents submitted to the Senate of New York, Relative to Imprisonment for Debt," *Daily National Intelligencer* [Washington, DC], April 26, 1817, 1.

<sup>71</sup> Ibid.

<sup>72</sup> "The Albany Daily Advertiser," *The New-York Morning Herald*, April 23, 1830, 1.

him to “lead a life of inactivity, unprofitable to himself, the community and his creditors.”<sup>73</sup>

Then laws were passed to prevent anyone being jailed for owing less than five dollars. That law was soon extended to include those who owed less than 10 dollars.<sup>74</sup> Considering the circumstances that the families and debtors were left with, the lawmakers decided to increase the exemptions on property that could not be confiscated by creditors. Beginning in the 1820s exemptions included not only the original “basic clothing, furniture, and household goods,” but also began to include “the tools of a debtor’s trade, some livestock, the debtor’s dwelling house and forty or fifty acres of surrounding land.”<sup>75</sup>

Some states led the way for complete abolition. In Kentucky in 1830, R.M. Johnson, of the House of Representatives, stated, “I am proud to say, imprisonment for debt is not to be found in our statute books, under any circumstance,”<sup>76</sup> as well as Maine in 1824, “It will be gratifying to every friend of humanity to know that the legislature of Maine...abolished the laws of that state which authorized imprisonment for debt.”<sup>77</sup> Martin Van Buren also played a significant role in the ending of imprisonment for debt in New York. In 1817 Van Buren, “a distinguished member of the Senate of the state of New York,” brought forward a bill to abolish imprisonment for debt for the “good state of New York.”<sup>78</sup>

The political leaders urged state legislators to act in the complete removal of imprisonment for debt laws. When one state would propose a bill or legislation political leaders would print encouragements in the newspapers for other states to do the same. While complete

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<sup>73</sup> “Republic of Debtors,” 73.

<sup>74</sup> Coleman. *Debtors and Creditors*, xi.

The five dollars or less imprisonment was a bill passed in Massachusetts

<sup>75</sup> Balleisen, *Navigating Failure*, 12.

<sup>76</sup> “Imprisonment for Debt,” *United States’ Telegraph* [Washington, DC], Jan 27, 1830.

<sup>77</sup> “Abolition of Imprisonment for Debt,” *Maryland Gazette and State Register* [Annapolis, MD], March 11, 1824.

<sup>78</sup> “Imprisonment for debt,” *Daily National Intelligencer* [Washington, DC], Feb 14, 1817, 1. Van Buren is referenced this way in a letter to the editor by a subscriber.



abolition was rare at the time, most states had a few laws to assist insolvent debtors. One of those piecemeal acts was the relief of poor debtors: it would allow the release of prisoners upon surrendering all property, even if that property was not enough to pay the full debt.<sup>79</sup> The debtor would then take a poor man's oath that he was too poor to pay the debt at no fault of his own. This allowed thousands to be freed from the bondage of debtor prison cells. "More than 50,000 debtors were set free in the next thirteen years."<sup>80</sup>

The act was not always enough to help those already imprisoned to be released. While in prison a debtor was responsible for the cost of boarding, and often those costs kept them imprisoned. In a letter to the editor, a man signed his letter "Shameful" as he brought some of these injustices to light:

As a friend to humanity, I transmit to your candid attention the situation of Capt. Brewer, now confined in Amherst goal...in which place he has been in confinement for nearly four years, on civil debt, the original of which amounted to about eight dollars and now altogether with his board amounts to nearly three hundred dollars.<sup>81</sup>

After the required thirty days, Capt. Brewer took the oath to be released by the act that relieved poor debtors, but was unable to be released because of his newly acquired debt. Not only that but he had been a captain in the Revolutionary War.

He was a hero of our Revolution and held a captain's commission through part or the whole of the struggle for our independence: But now he is immured in a prison 12 feet square with many others.<sup>82</sup>

Naturally, the argument to exempt Revolutionary War veterans from debtors' prison would come next. In February of 1830 a resolution was introduced by Burge of Rhode Island

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<sup>79</sup> Countryman. *Debtor and Creditor*, 77.

<sup>80</sup> Ibid.

<sup>81</sup> "Shameful," *Raleigh Register* [Raleigh, NC], Aug 28, 1818, 1.

<sup>82</sup> Ibid.

into the House of Representatives to allow this exemption to occur, “and it is a matter of surprise that it has never before been thought of by Congress.”<sup>83</sup> “...Little advantage can be derived from shutting up within the wall of a prison, a man tottering on the verge of the grave with no other wealth than the wounds he received in the defense of his country.”<sup>84</sup> Knowing that without the sacrifice of those men, the freedom their creditors now enjoyed would never have been, it seems like a terrible injustice for those soldiers to suffer the remainder of their days in prison for misfortune. In response to why they should be allowed exemption, the *Daily National Journal* argues that if anyone deserves the freedoms this country has to offer, it is the men who fought for it:

Those surely should enjoy the privilege of being free from imprisonment for debt, who fought for the freedom we possess: especially [since it] can be beneficial to neither the creditor nor the nation. It must be a disgrace to the country, and but poor consolation to the creditor, to see an infirm and aged debtor wearing out the remnant of a life which had perhaps been frequently periled for his country, within the walls of a prison, or expiring on his pallet, the victim of unnecessary and profitless cruelty.<sup>85</sup>

Not everyone believed this was proper sentiment. In response to the call for exemption of Revolutionary soldiers and officers, *The New-York Morning Herald* in outrage spoke out, “this appears to us to be a half way measure only and totally inadmissible.” Displeased with the piecemeal process, *the Herald* said, “We do not believe there is a revolutionary soldier in the country that would wish to have the exemption of imprisonment for debt, apply only to him if he believed his application for that purpose would retard for a single session the passage of a general law.”<sup>86</sup>

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<sup>83</sup> “We are happy to find,” *Daily National Journal* [Washington, DC], Feb 4, 1830, 1.

<sup>84</sup> *Ibid.*

<sup>85</sup> *Ibid.*

<sup>86</sup> “Imprisonment for Debt,” *The New-York Morning Herald*, April 5, 1830, 1.

It would have been simple to make the changes that would abolish imprisonment for good at a national level. At that time, legislation to exempt females from debtors' prison had already been put into place, to make the law complete would simply mean an amendment to add males.<sup>87</sup> An article in the *Maryland Gazette* mentioned the reservations of the masses to completely abolish the law, but showed the newspaper's hope that the law would still pass:

Col. Johnson has introduced into Congress his bill for the abolishment of imprisonment for debt, so tenacious however, are many people of the old modes of proceeding, however founded in error they may be, that it is impossible to decide at this juncture, as to its ultimate fate. We would hope however, for the honor of our country, that it may pass both branches of the legislature by an overwhelming majority.<sup>88</sup>

It is one of the duties of the media to inform the public of injustices in society. By giving the masses a description of these injustices, the media were able to persuade public opinion in the case of abolition of debtor's prison.

It was in the year 1831, in this so-called Christian, civilized, and intelligent community, after long and violent discussion of the subject, that the legislature of the great State of New York was able to record on the statute book the reform that allowed the unfortunate debtor his personal liberty. We remember well the violent opposition to this liberty, both before and after the law affecting it was passed.<sup>89</sup>

The fight to end imprisonment for debt was not easy. There were many who felt that doing so would "destroy all obligations resting upon debtors to cancel the demands of creditors."<sup>90</sup> That abolition was "destructive to public morals," and that imprisonment for debt was actually "a healthy condition of society."<sup>91</sup> "Thousands were weak enough to imagine that it

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<sup>87</sup> "Imprisonment for Debt," *The New-York Morning Herald*, April 5, 1830, 1.

<sup>88</sup> "Col. Johnson has introduced into Congress his bill for the abolishment of imprisonment for debt," *Maryland Gazette* [Annapolis, MD], Dec 19, 1822, 1.

<sup>89</sup> Ibid.

<sup>90</sup> Abolition of Imprisonment for Debt," *Boston Investigator*, June 2, 1847, 1.

<sup>91</sup> Ibid.

would destroy all wholesome credit, or if credit was given, all moral obligation to cancel debts. They saw in the movement nothing but anarchy, destruction and injustice.”<sup>92</sup>

A country founded on opportunity could not uphold an act that discouraged its citizens from utilizing that opportunity for fear of failure. That is exactly what imprisonment for debt did. It punished those who were willing to take a chance at success. Johnson truly understood what abolition of imprisonment for debt would mean to America. He said “indeed, we begin to look back with surprise and astonishment, that such a barbarity should ever have existed, or that a republican community should ever have supposed that such a gross violation of personal liberty should ever have been necessary.”<sup>93</sup> America is founded on opportunity. A man should not be called a criminal for taking those chances under honest circumstances. He should be afforded every opportunity to pick himself up, make right his failures and take as many attempts at success as he is willing.

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<sup>92</sup> Ibid.

<sup>93</sup> “The following letter,” 1.

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