



Devon Family History Society
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Devon Record Office



REGISTER OF INSOLVENT DEBTORS

1835-1847

DRO Reference – QS36/2

DFHS Book Reference - D010

Under the Bankruptcy Act of 1571, a **bankrupt** was able to discharge his debts to his creditors and recommence trading, after an independent and equitable distribution of his assets by specially appointed official commissioners of bankrupts.

Before 1841, not everyone who owed money could apply for bankruptcy. Only those regarded as "traders", who owed more than £100, could be declared bankrupt, and settle their outstanding debts with their creditors by the above type of agreement. A "trader" was deemed to be one who bought and sold goods, or who worked on bought materials before selling them on. This amount was lowered to £50 in 1841.

All other debtors were regarded as **insolvent debtors**, and were likely to be jailed. Debtors were not classed as criminals and their names, therefore, do not appear on assize or gaol delivery rolls, even though they were also held in gaol. They were not submitted to punishment, only to imprisonment. Of course, poor debtors could be more readily imprisoned, and their sufferings were just as great, or greater, and generally much more prolonged than those of their more culpable companions in gaol. A creditor, in many cases, was able to have a debtor imprisoned upon a simple swearing of the debt.

If the insolvency and honesty of the debtor were acknowledged, his friends were looked to by the creditor as a source of payment,, which led to distress on their part. In all cases of civil insolvency, without a pardon from his creditor, the debtor was imprisoned for life. This punishment could be inflicted by any private individual with an interest, who could by his actions "*pardon without discretion, or punish without mercy and without measure*".

This situation was regarded as "*a gross and cruel fault in law*", but the law was not reformed until 1861, when another Act allowed insolvent debtors to

petition for bankruptcy. Before this, people in debt often lied about the nature of their occupations, so they could qualify as a trader, and escape imprisonment.

This Register of Insolvent Debtors [QS 36/2] which covers the years 1824 to 1847, is found among the Devon County Quarter Sessions records held at Devon Record Office, Exeter. At the front of the volume is written the oaths which insolvent debtors and witnesses had to swear in court, before answering questions and giving evidence. Following this are lists of persons brought before the court for each session, beginning with 10th March 1825. The Register gives the name, parish or town of residence and occupation of each insolvent, and the order made in the court concerning the case. Many were discharged, either completely or conditionally, on the date of their appearance.

The Public Record Office has also published the following helpful leaflets, which are available from them by post, or on-line through the National Archives website:

Bankrupts and Insolvent Debtors: 1710-1869
Bankruptcy after 1869