Dear all,

Thank you so much for your patience in reading what is my very first attempt to write something in English. The text is in the first instance intended as a piece in a collected volume, and it will be reviewed by a language editor since at the moment this is, well, just not English. After that, I plan to substantially rewrite the text to become a chapter in my dissertation (to be written in German).

The dissertation attempts at a cultural history of everyday debt enforcement in nineteenth-century Switzerland, in the era of liberal capitalism. It argues that in a time when liberal concepts of property and of contractual and market relations became formulated and enforced, these concepts encountered highly embedded individuals whose everyday credit and debt transactions were much shaped by cultural traits and status differentials.

So, although this text deals with bankruptcy, the dissertation is not about business failure and not in economic history. It rather tries to take debt enforcement both as a tracer for social and cultural changes and as a site of tensions, enacted in relations between people.

I would be particularly grateful for your criticism concerning the discussion of the issue of knowledge in this text. I am aware that to speak of ‘epistemic practices’ and ‘epistemic anxiety’ is to set the stakes too high (in the submitted version of the paper, I have omitted these terms). It doesn’t work yet. I put these terms here no less, and insert them into the title, rather to indicate a direction I hope to give to the argument and in order to stimulate discussion.

Thank you again for reading this, I’m excited to hear your comments and criticism.

Best,
Mischa.
Knowledge, Morals, and Epistemic Anxiety in Bankruptcy

Proceedings (Basel, 1840s)

1. The condition of Falliment

‘Already six years have passed since I quit a most respectable trading house, and, shortly after, was thrown into deepest misery’, wrote Rudolf Hunziker, a thirty-six year old day-labourer and father of three children, to the mayor and council of Basel in 1854. ‘To which came the loss of my civil rights & honour, following my Falliment.’ In his letter, Hunziker petitioned for rehabilitation from his Falliment, as the legal situation of insolvency was called.¹ Hunziker continued: ‘More than four months without any bread [brodlos], without any hope or expectation for any apt employment, I decided, in order to provide my family with the most basic necessaries – and in order to not let them get into other hands, with work, be it what it may, as long as it was an honest one – to prevent this.’ Having worked as a packer in a large store and having gained ‘the confidence & the esteem’ of his superiors, Hunziker claimed to have ‘satisfied and paid’ his

¹ A remark on terminology: ‘Insolvency’ and ‘bankruptcy’ are used interchangeably throughout the text, although this does not reflect Swiss nineteenth-century usage of the terms. Falliment (or German Konkurs) was not a punishable crime and the cases considered in this chapter all fell under private law, but the fraudulent Bankrott was a criminal act, and distinguishing between the two was never easy. During the nineteenth century, the English term ‘bankruptcy’ became to be colloquially used interchangeably with the broader term ‘insolvency’ in the United States and Britain, and is used this way in most present-day English-language historiography. ‘Bankruptcy’ was in many European countries and the United States related to statutorily defined occupational groups, such as merchants, yet in Basel, Falliment could occur to everybody, not only to merchants. For the early modern French terms, see Julie Hardwick, ‘Banqueroute: la faillite, le crime et la transition vers le capitalisme dans la France moderne’, Histoire, Économie & Société, 30 (2011), 79–93; for England, see Julian Hoppit, Risk and Failure in English Business, 1700–1800 (Cambridge, 1987), chaps. 2, 3 and V. Markham Lester, Victorian Insolvency: Bankruptcy, Imprisonment for Debt, and Company Winding-Up in Nineteenth-Century England (Oxford, 1995), 37–9; for the United States, see Bruce H. Mann, Republic of Debtors: Insolvency in the Age of American Independence (Cambridge, MA, 2003), 45–6 and Scott Sandage, Born Losers: A History of Failure in America (Cambridge, MA, 2005), 30–1; for Germany and Austria, see the thematic issue by Peter Eigner, Erich Landsteiner, Peter Melichar, ‘Bankrott’, Österreichische Zeitschrift für Geschichtswissenschaften, 19 (2008), esp. ‘Einleitung’, 5–9; for a study which embraces the full range of debt enforcement in a wider context of credit relationships, see Ira Spieker and Elke Schlendrich, ‘Im Soll: Kredite, Schuldklagen und Zwangsvollstreckungen. Ländliche Ökonomien im (vor)modernen Sachsen als Spiegel sozialer Praxen’, Volkskunde in Sachsen, 19 (2007), 9–40.
creditors. ‘Now then, my most esteemed mayor and most honoured gentlemen,’ he continued, ‘there remains just one stain adhering to me, that affects me to the inmost & is a great obstacle for my future – namely, the loss of my civil rights […].’

This chapter is concerned with the experiences of bankruptcy law in Basel in the 1840s, a period marked by economic and political crises. Basel was a canton confined to a small, yet fast growing town with roughly 23’000 inhabitants by 1840, and 38’000 in 1860. Economically, it was marked by a dual regime of an export-led, rapidly industrialising silk-ribbon weaving sector (though cottage industry remained important), and an artisanal and trade sector still significantly structured by the guilds. In the economic hardship of the mid- and late 1840s the number of insolvencies rose sharply. The median number of bankruptcies in Basel was 24 per year between 1840 and 1860, and peaks appeared 1847 (41 cases) or 1849 (45), and again in 1854 (52). In the same period, in 1848, the Swiss federal state was founded. At the initial moment of the nation-state, questions surrounding male suffrage and citizenship rose to the fore. The related issues of civil rights and social order were interwoven with the situation of Falliment, as I will detail towards the end of this chapter.

Falliment was a legal term, but its meanings exceeded its narrowly defined legal application. Contemporaries spoke of Falliment, or of being a Fallit, as an ‘estate’ (Fallitstand), thereby evoking a concept of social order, or of a ‘situation’ (Fallimentszustand). They alluded to being put into a certain social condition. For men, this condition meant a publicly announced loss of

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2 Staatsarchiv Basel-Stadt (STABS) Justiz J6, Einzelne Rehabilitationen 1846–1856, request for rehabilitation by Rudolf Hunziker, 10 October 1854, emphasis in original.
6 On citizenship and the Swiss nation-state, see Regula Argast, Staatsbürgerschaft und Nation: Ausschliessung und Integration in der Schweiz 1848–1933 (Göttingen, 2007).
civil rights: they could not vote or take an office, they were excluded from military service, they could no longer carry a weapon, and they were not allowed to sign contracts. For married women, it entailed a shift from their husbands’ legal control over their property to a form of tutelage which was managed by the town’s guilds. Those who were not citizens of Basel – roughly two thirds of the inhabitants in the period under review – risked losing their residence permit. The local civil courts were charged with the investigation into the reasons of insolvency and wrote a report for each Falliment to the minor city council. The latter in many cases advised the police to question the insolvent, that is, whenever there was the slightest possibility that a criminal investigation might become necessary or when a residence permit was on the line. A Fallit could request rehabilitation only after he proved that he had paid all his creditors. However, many insolvents were never able to repay their debts. Some, like Rudolf Hunziker, expressed a deep desire to reimburse their creditors and to be reinstated in their civil rights. Others, as will become apparent, did not bother much being bereft of their civil rights at all. In what follows, the variety of experiences, and the inconsistent legal situations in which insolvents manoeuvred, are examined.

In the mentioned citation, Rudolf Hunziker spoke of a ‘stain adhering to me, which affects me to the inmost’ (ein Makel mir anklebend, der mir bis in das Innerste geht). He referred to the regard from others (a ‘stain adhering’), on the one hand, and to his inner existence, on the other. This interplay of social standing and inner life serves as a starting point for analyzing the experience of Falliment. A decade prior to Rudolf Hunziker’s petition, an interested observer of economic

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8 Der Statt Basel Statuta und Gerichts-Ordnung..., Basel 1849, § 274.
issues reflected on the themes of debt, credit, and money by using a similar opposition of inside/outside, the individual, and the social individual.

As he excerpted James Mill’s *Elements of Political Economy* in 1844, Karl Marx wrote that, with credit, ‘[t]he substance, the body clothing the spirit of money is not money, but instead it is my personal existence, my flesh and blood, my social worth and status.’ According to Marx, credit supposedly escaped the abstraction money entailed since it, without taking recourse to a medium of exchange, placed people in direct relation to each other. In a credit relationship, money was bypassed, and no longer numerical values were exchanged but ‘[h]uman individuality, human morality [...]’. Yet ‘this return of man to himself and thus to other men’ which the credit relationship engendered, was according to the young Marx, only an ‘illusion’: a ‘self-estrangement, dehumanization, all the more infamous and extreme because its element are no longer a commodity, metal or paper, but the moral existence, the social existence [das gesellige Dasein], the very heart of man [das Innere der menschlichen Brust selbst], and because under the appearance of mutual trust between men it is really the greatest distrust and a total estrangement.’ Marx argued in the context of his concept of estrangement: with credit (as opposed to money), estrangement came full circle since it transfigured people themselves in terms of money: ‘We should reflect on the immorality implicit in the evaluation [Schätzung] of a man in terms of money, such as we find in the credit system.’ For the purpose of this chapter, however, focus will be placed on Marx’ remarks on ‘social existence’, ‘moral existence’, ‘individuality’, ‘evaluation’, and (dis-)trust, and not on his concept of estrangement.

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11 Marx, ‘Excerpts’, 264, emphasis in original.
Marx’ consideration can be taken as a contemporary reflection on indebtedness in the 1840s.\textsuperscript{13} Notwithstanding Marx, recent writing on the social and cultural history of debt has claimed in a similar way that the cultural aspects of social recognition and estimation lay at the heart of early modern and nineteenth-century credit relationships alike.\textsuperscript{14} As Margot Finn has written in her study on credit and consumption, ‘Creditors sought constantly and unsuccessfully to read debtors’ personal worth and character from their clothing, their marital relations, their spending patterns and their perceived social status[…]’.\textsuperscript{15} Further, as Laurence Fontaine notices, insolvency is an ideal case for the study of the cultural mechanisms in the social construction of trust, since in times of crises, insolvency hit first and foremost those who were less embedded in mutual webs of obligation.\textsuperscript{16}

Building upon Finn’s and Fontaine’s assertions, I want to emphasize the problematic of knowledge in dealing with insolvency. Evaluation (that is, to ‘read’ somebody’s status), I argue, was not limited to the ex-ante assessment of creditworthiness but became of pivotal importance in the case of insolvency as well. Court officials had to enquire the worth of insolvents, and they faced complicacies in gathering this knowledge. This prompts the broad question about the workings of cultural practices in the process of knowledge-production: How were techniques of examination and qualification culturally formatted? How did the assigning of an individual case in the context of classification work? If we extend Marx’ observation and take trust in this context as a certain way to cope with nescience and distrust as essentially an urge for information, ‘evaluation’ – the quest for knowledge and the uncertainty it was based upon –

\textsuperscript{13} Not the least because Marx himself, and probably still more so Jenny von Westphalen, his wife, were constantly struggling with household debts. On Marx’ own personal indebtedness and his silence on this everyday experience in \textit{Capital}, see Peter Stallybrass, ‘Marx’ Coat’, in Patricia Spyer (ed.), \textit{Border Fetishisms: Material Objects in Unstable Spaces}, (New York / London, 1998) 183–207.


\textsuperscript{15} Finn, \textit{Character}, 21.

\textsuperscript{16} Fontaine, \textit{Économie}, 291.
appears as a procedure in which moral attitudes and cognitive operations were intertwined. For morals play a central role in the sources under review. This chapter proposes to take moral judgement as imbricated with epistemic practices: moral judgement framed the authorities’ assessment and provided a way of classifying people.

In order to deal with those questions, this chapter draws on concepts from the history and sociology of knowledge. The term ‘encoding’, borrowed here from the history of statistical thinking, points to methods of assigning a singular case to a group while abstracting from some individual circumstances. When authorities examined an individual bankruptcy case, they ‘encoded’ it according to a certain script, thereby drawing on techniques of both cognitive and symbolical evaluation. This assessment was a social process not isolated from, and sometimes in conflict with, other registers of legitimacy in society. Sociologist Luc Boltanski’s notion of ‘operations of qualification’ is of help here, which conceptualizes a process of assigning, documenting, and denominating worth in a given situation. In an intransparent social world institutions, according to Boltanski, forcefully stabilize situations by prescribing what in fact ‘the point is’. Yet at the same time actors in social space move through different societal domains of worth, while employing different modes of justification for their behaviour, contesting other actor’s qualifications.

Historian Ann Stoler’s notion of ‘epistemic practices’, drawn from a colonial context, is further useful in the context pursued here. Stoler shows how the taxonomies and procedures of knowledge-production of the Dutch colonial rulers in Indonesia encountered moments of profound uncertainty on the ground. These practices of knowledge-production, although

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doubtlessly forceful and violent, proved to be incoherent and piecemeal, and continuously document what Stoler pertinently terms ‘epistemic anxieties’, that is, ongoing doubts over the capability of language and resources to deal with contradictory situations. For sure, the colonizers quest to establish ‘racial essences’ in the Dutch Indies differs enormously, probably incomparably, from the social classifications of bankruptcy in a nineteenth-century Swiss town. However, without wishing to overstate the conceptual link, the following chapter seeks to explore how the notion of ‘epistemic anxiety’ can be put to use in order to analyze Basel’s civil servants’ mundane administrative practices of assigning and evaluating persons and their belongings. Some historians of knowledge pay particular attention to the material conditions of knowledge-production, the mediality involved in techniques of documentation. Many of the epistemic practices in Basel’s bankruptcy cases, however, were bound to varying rhetorics and modes of narration, rather than to modes of writing, although lists, tables, inventories, and questionnaires played an important role as well.

In historiography, the link between morals, knowledge, and credit has been explored in works on credit reporting agencies which first became established in the United States in the 1840s and who engaged in the trade of assessing creditworthiness of potential business partners. As Josh Lauer and Hartmut Berghoff observe, these agencies, which collected and sold information to entrepreneurs, in the beginning employed a moral ‘character rating’. Lauer and Berghoff focus on the agencies’ filing techniques and their economies of scale and do not further examine the nature of the morality at stake. Certainly, the anticipatory information in credit reporting was

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different from the kinds of knowledge-gathering in the case of bankruptcy. Yet in both cases
were information and knowledge at stake and linked to moral questions.

The classifications and moral outlooks as well as the attitudes, perceptions and explanations
which these classifications encountered formed the social phenomenon of *Falliment* – they did so
in a contradictoray, contested way, as will be argued in what follows. This chapter utilizes 260
short reports on bankrupts issued by the civil courts between 1841 and 1851. In addition, the
sources include 73 police interrogation minutes with bankrupts between 1840 and 1850, as well
as the 38 petitions bankrupts wrote between 1846 and 1856 to request rehabilitation. Over ninety
percent of the reported insolvents were male. The next section deals with the reasons authorities
gave for the insolvencies, followed by an analysis of the bankrupts’ versions of their story in
section three. Section four is devoted to the issue of the female marriage portion which proved to
be the most difficult asset to delineate in a bankruptcy process. The fifth section examines the
petitions for rehabilitation, like the one of Rudolf Hunziker mentioned at the beginning.

2. Accounting for Failure: The Grammar of Moral Judgement

How did the authorities describe and scrutinize the bankruptcies and the bankrupts? One strong
producer of evidence in the sense of consolidated fact is the introduction of aggregate economic
information, like statistics. All over Western Europe, insolvency and moral outlooks both were
subjects of the emerging knowledge complex of statistics. In Basel, a *Fallitenregister* which
was set up in 1806, chronicled all insolvents alphabetically in a single book throughout the

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nineteenth century. Also elsewhere in Switzerland, contemporaries closely observed the statistics of insolvency, taking it for an indicator of economic fluctuations.

In their reports to the mayor and the city council, the civil court officials accounted who the bankrupts were and what, according to their view, had caused the insolvency. Thereby, these authorities defined and a very heterogenous social group. Yet to link financial failures to specific occupational groups is problematic, because many of the interrogated insolvents told a story of shifting and varying occupations, whereas the officials’ reports accounted only one profession to each insolvent. Having said this, it appears that craftsmen and trades people such as bakers, butchers, grocery dealers, tailors, and shoemakers were strongly represented. But in this diverse group one also finds silk weavers, day-labourers, office clerks, coachmen, washerwomen, merchants, and one sketch-drawer in a ribbon factory. Many of the insolvents could be termed ‘people in between’. Some were lower middle-class trades people or artisans who had yet to establish themselves and had to build up a reputation first, partly because they were new in town or because they could not rely on family ties. These people occupied a middle position between customers who bought on credit and suppliers who at some point cut their credit short and insisted on cash payment. In the case of financial distress they were not able to balance their simultaneous roles as debtors and creditors. The baker Jakob Henz who failed to pay a meal bill is exemplary in this respect:

‘In the year of 1838, when I was carrying on my profession as a baker’, he wrote requesting rehabilitation, ‘I could not – as I had to sell on credit [creditieren] as well – satisfy a creditor as fast as he wished; I was

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23 STABS Gerichtsarchiv G hoch2, 1: Fallitenregister 1806–1891.
therefore not only enforced, but – as the respective creditor was strict – enforced until the very end and got into the situation of Falliment [Fallimentszustand] and several of my creditors sustained losses.  

Financial failure was not necessarily equivalent to being a pauper. Indeed, in about 50 of the 260 cases the officials reported that the insolvents were simply too poor to repay their debts or lacked any assets. But many, especially those who were interrogated by the police, were implicated in substantial financial dealings that often involved real estate. The court officials further noted that some bankrupts had opened an inn shortly before going insolvent. This points to the intention to enter a business of precarious self-employment which some managed to start with low initial fundings, if credit from suppliers could be obtained. Often, though, the opposite occurred, as was the case with the tailor Carl Wassermann who had ‘accelerated his Falliment by taking over the licence for an inn, which is often done by these people as a last resort […].’ But the case also indicates that officials quickly linked tavern-keeping to carelessness since less than ten percent of the insolvents under consideration opened up a tavern or turned to boarding (Kostgängerei).

The authorities’ knowledge was always partial and uncertain. The respective information relied on hearsays and denunciations. One reason for this lack of solid information was that in a quarter of the cases the insolvents were absent, since they would have already temporarily fled from the proceedings. The story of Johannes Bader, a butcher who ‘allegedly together with a female left his wife and children and left town to settle in America’ was not exceptional, except for the fact

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27 In this context, the civil court officials at one point in the crisis of late 1847 suggested to the city council to implement general restrictions on the purchase of real estate. STABS Justiz J8, Collocationen der Stadt 1840–1851, report, 13 January 1848.
28 STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Carl Wassermann, 27 October 1845.
29 The school-teacher Niklaus Fessler moved because of ‘lack of earning and a guilty conscience’ with some of his family to America, 26 January 1847; the wagon-maker Joseph Sprich left to America, 26 January 1847; Emanuel Staub became a mercenary for the Kingdom of Naples, 26 January 1847; the tailor Johannes Krattiger settled for America, 19 April 1847; the glassworker Hieronymus Friedrich Holzach left his wife and children and settled in America, 13 July 1847; the inn-keeper Jakob Schneider ‘secretly edged away with his second wife while leaving his children from his first marriage’, and supposedly went to America, 10 July 1848; Rudolf Jeremias Christ had lost his wife and children and ‘according to reports went to America’, 13 January 1848; the erstwhile civil court officer Heinrich Tschientisch ‘left office, family and home country’ and moved to America, 19 January 1849; the saddler Eduard Rebsamen allegedly went to America, 2 July 1849; the joiner Urs Victor Pfirter settled with his family in America, 2 July 1849; the scrivener Leonhard Matzinger-Weck moved to Amiens to start a trade in
that he returned shortly after that and tried ‘to redeem his misstep by offering his creditors an additional 20% which the family of his wife is willing to pay […]’\textsuperscript{30} The potential hiding of assets was another source of uncertainty. If the value of the mobile assets was conspicuously low, the officials suspected the insolvents of the ‘concealment’ (\textit{Hinterschlagung}) of goods.\textsuperscript{31} Also, ‘defraudation\textsuperscript{32}’, ‘diversion’ (\textit{Verschleppung})\textsuperscript{33}, or the ‘alienation’ of goods (\textit{Entfremdung})\textsuperscript{34} could become subject to criminal investigation. But often the authorities did not pursue the matter further since they lacked the necessary information or the goods were of too little value. ‘No need to be stupid, you have to divert the belongings’ (\textit{man müsse nicht so dumm seyn und die Sachen auf die Seite schaffen}), the wife of the insolvent Abraham Sixt allegedly said shortly before her family went bankrupt, and moved some household effects, silverware, and money from Basel to the suburb of Allschwil, as an anonymous informer told the police. When the police officer handed over the interrogation warrant to Abraham Sixt, he later reported to have looked at the kitchen of the \textit{Fallit}, ‘which was poor, and I have seen it furnished with old belongings only, as is the case with people who do no longer own much.’ Having no search warrant, he merely ‘threw a glance through the open door into the sitting room, and saw nothing remarkable there, too, only a table in the middle of the room; yet I did not see the whole sitting room.’\textsuperscript{35} Insolvents fashioned themselves not only poorer than they were but also richer, to keep up appearances. They did so in order to remain in credit, such as Samuel Barth, who was blamed for having managed ‘to keep up

\textsuperscript{30} STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Johannes Bader, 5 May 1845.
\textsuperscript{31} STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Philipp Schwarz, 7 May 1844; conclusion of report, 27 October 1845, reflecting on several cases of insolvency; report on Abraham Six, 16 April 1846; report on Rudolf Sandreuter, 6 July 1846.
\textsuperscript{32} STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Ludwig Calre, 5 October 1848; report on J.J. Eckenstein, 19 Jan. 1849.
\textsuperscript{33} STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Christoph Grey, 6 October 1849.
\textsuperscript{34} STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Alois Matua, 19 January 1849.
\textsuperscript{35} STABS Justiz J7, Einzelne Concurssachen 1846–1852, police report on Abraham Sixt, 23 April 1846.
the illusion of wealth by holding an équipage [a carriage, MS].\textsuperscript{36} Also, the authorities only had quite limited control over the bankrupts’ behaviour. ‘It would be desirable to find ways to fine debtors like Häring’, they wrote in 1845, ‘who, by complete comprehension in perfect insolvency, time and again manage to borrow smaller or larger sums, since such borrowing with its promise to repay appears as nothing else but fraud.’\textsuperscript{37}

Despite the unreliability of sources and information, authorities made definite and decisive judgements for the reasons of financial failure. These judgements followed a logic: In a standardized form, they told a story of individual responsibility and culpability. They employed in a specific way the dialectic of inside and outside that was noted in the beginning of this chapter. According to the court officials, it was the inner, individual failure that led to a debasement in social status. The case of Rudolf Hunziker, the petitioner for rehabilitation mentioned in the beginning, is exemplary: ‘This Fallit has been a clerk in a tradehouse of our town, then he became a post conductor, and now he is a day-labourer. – This descending career path seems not to be caused by misfortune, but was a self-inflicted [der Selbstverschuldung zuzuschreiben].\textsuperscript{38}

The court officials attributed two complementary characteristics to Falliment: the lack of industriousness and the lack of good housekeeping (haushalten). On a first level, these two interconnected components can be translated into the spheres of production and consumption, into the lack of consistent earning and of economical spending, of workplace and the domestic, but they were closely intertwined. In the view of the officials, housekeeping held productive

\textsuperscript{36} STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Samuel Barth, 13 Jan. 1848.
\textsuperscript{37} STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Oscar Häring, 16 July 1845.
\textsuperscript{38} STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Rudolf Hunziker, 7 Januar 1850. During his interrogation, Hunziker claimed that he worked as a stockroom labourer, not a clerk. STABS Justiz J7, Einzelne Concurssachen 1846-1852, interrogation of Rudolf Hunziker, 11 January 1850.
aspects, and work demanded virtues that originated from the domestic sphere as well. The failures in the domestic sphere were rendered into notions of ‘squandering’, often linked with drinking, or of ‘debauchery’ (*Schwelgerei*) and ‘luxuriousness’ (*Wohlleben*).\(^{39}\) Mostly, the two explanations were combined: ‘This *Fallit* could have prevented his Falliment, had he been more economical and industrious’, was the typical and standardized story of failure.\(^{40}\) To be ‘work-shy’ meant inconsistency, a lack of focus in one single occupation, and an inappropriate use of time: ‘This *Fallit* who stayed here as a silk weaver and started trading in commodities given to him on commission, seems to belong rather to the class of the *aventuriers*, as opposed to hard-working people who persevere in their profession.’\(^{41}\) As with the case of a hat-maker: ‘This *Fallit* concerns himself not only with his occupation but is often away on travels where he presumably spends more than he gains.’\(^{42}\) Official accounts admonished a joiner: ‘Idleness [*Arbeitsscheu*] and perhaps self-inflicted lack of customers are the reasons for the *Falliment*.’\(^{43}\) Carlessness and incompetence were additional attributes of failure.

In the civil court officials’ discourse, the notion of ‘immoral’ esteem connected the regard from others with individual behaviour. A statement about a whig-maker said: ‘As can be concluded by the many letters of of debt collection over many years, this *Fallit* has had a wrecked home [*zerrüttetes Hauswesen*] for a long time and he has not a good moral reputation.’\(^{44}\) ‘Immorality’ was also linked to social interaction; it came to the fore in reprehensible dealings with others, for which the notion of deceit was central.\(^{45}\) ‘This extravagant and immoral man managed […]’, in a

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\(^{39}\) For example, STABS Justiz J8, Collocationen der Stadt 1840–1851, Report on Johann Georg David, 16 July 1845; report on Heinrich Plattner, 26 Oct. 1846.

\(^{40}\) STABS Justiz J8, Collocationen der Stadt 1840–1851, report on J.J. Sandreuter, 16 July 1845.

\(^{41}\) STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Jean Maas-Day, 20 October 1841.

\(^{42}\) STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Adam Scherb, 22 January 1844.

\(^{43}\) STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Martin Rapp, 27 October 1845.

\(^{44}\) STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Rudolf Carly, 6 July 1846. Similar statements in the report on David Keller from 23 April 1841; in the reports on Christoph Heckendorf and Maria Knechtle, both 17 August 1842; in the report on Ludwig Calre, 5 October 1848; and on Heinrich Scherrer, 19 January 1849.

deceitful way [*hinterlistiger Weise*], to get hold of the annuity of 1000 Fr. which his wife’s relatives paid for her, for five years in advance. When Heckendorn received this sum of Fr. 5000, he ran away and left his wife and his children behind.46

In addition to the surprisingly few cases that treated the topics of sickness, disability or old age47, it was in the domain of family and household – and only here – where authorities found acceptable explanations for a *Falliment*. If the ‘wrecked home’ might stand at the origin of self-inflicted financial decline, then also, on the contrary, family responsibilities like taking care for many children or for relatives might account for a misfortune through no fault of one’s own. However, the one explanation the authorities never gave for a failure were economic crises.48

During the hunger crisis of 1847, when in Basel roughly 5000 persons obtained free meals from philanthropic institutions,49 the officials concluded their report: ‘Even if many of these insolvencies may have an additional cause in the hardship of these times [*in der Bedrängniß der Zeit ihren mitwirkenden Grund haben*], it should nevertheless be appropriate, given the excess of careless insolvencies, to pursue matters against the fallibles [*die Fehlbaren*] all the more strictly, as command our laws […].’50 What authorities noticed and what they felt to have to intercede against were perceived individual failures only, and their translation into improper reputation. For this, the bridge between inner self and social standing was provided by the semantics of morality, that is, the projection of the individual onto the social.

46 STABS Justiz J8, Collocationen der Stadt 1840–1851, report on Christoph Heckendorn, 17 August 1842.
47 I counted only 14 such cases out of 260.
48 In some rare instances, the court officials took heightened competition in specific trades into consideration, for example between grocery dealers or coachmen. See STABS Justiz J8, Collocationen der Stadt 1840–1851, report on J.J. Reischacher-Hirt, 13 January 1848; report on Johann Heinrich Wiesner, 2 July 1850.
50 STABS Justiz J8, Collocationen der Stadt 1840–1851, conclusion of report, 13 July 1847.
3. Modest Stories, Losing Credit

In contrast to the standardized narrative of individual missteps the court officials recounted, the bankrupts who were interrogated by the police, gave a different account of their failure. And yet their story rather complemented than contradicted the authorities’ account. The insolvents told a personal story, which stressed supra-individual circumstances and events. Certainly these were ‘enforced narratives’, structured by the police officer’s questions and following what Carolyn Steedman has called the “‘autobiographical injunction’”, that becomes ‘a history of expectations, orders and instructions’ in which the insolvent narrator tried to situate himself tactically.51 One of the requirements of these highly pre-formatted narratives was to tell an individual history that stressed similarity with others: a story of having done nothing particularly wrong. The insolvents employed a conspicuous rhetoric of modesty. ‘It just happened to me as it happens to many a man, I fell back in my earnings’, Rudolf Hunziker, whom we encountered in the opening of this chapter, succinctly told the police officer in 1850 his dilemma. He said he had assumed his father’s house for the substantial sum of 9’500 francs, of which at the foreclosure sale only 7’250 francs were recovered. The single most repeated cause the insolvents cited for their losses was a poor forced auction sale. In a sense, the bankrupts recounting low auction sales complained that the market was a mechanism without memory – whereas they remembered their expenses and efforts from the past and projected them on a value in the present and future.52 In contrast to the civil servants’ accounts, the bankrupts frequently referred to the ‘current conditions of the times’

52 See, for example, STABS Justiz J 7, Einzelne Concurssachen 1836-1845, interrogation of Christoph Gysin, 8 May 1845; interrogation of Rudolf Kübler, 17 Feb. 1845; STABS Justiz J 7, Einzelne Concurssachen 1846–1852, interrogation of Fredrich Klingelfuß, 4 Feb. 1846; interrogation of Otto Landerer, 6 Feb. 1846; interrogation of Friedrich Otto, 6 Feb. 1846; Johann Georg Oppermann from 18 October 1847; interrogation of Johann Jacob Reischacher-Hirt from 26 January 1848; interrogation of Johann Jacob Schlueb, 11 April 1848; interrogation of Johann Carl Peschel, 30 April 1849.
of the late 1840s, especially to the plummeted prices for real estate. To refer to a general economic crisis was, of course, an argument for exculpation; however, it is important to note how this broad explanation of failure was transfigured into private misfortune in the insolvents’ tales. The notion of economic crisis was merely a background to a personal consideration which gravitated around the loss of credit. To ‘fall back’ or ‘not to get ahead’ was, according to the bankrupts’ accounts, linked to the loss of credit.

Credit was not a single act of financial dealings, but an intangible situation or esteem, which one possessed, and which one could lose as well. It involved personal interaction and was built on a web of social relations consisting of reputation and confidence from suppliers, fellow traders, and family members, all of whom held their own expectations and claims vis-à-vis a debtor. The interrogation minutes of Friedrich Hodel, a thirty-year old shoemaker and a temporarily divorced father of four, are significant in this respect. ‘I established myself [as a shoemaker] in 1838’, he told the police officer,

‘with some ideas I brought from Paris, where I had been a lead worker in a distinguished shoemaker-enterprise and trading house for a while. In the beginning, I had no funds of my own, and had to […] equip my workshop, in which I handled goods of all kinds, solely on credit, and entered into debts with a heavy beginning, though I possessed the unlimited trust of local tanners, but their accounts rose very high by this as well […]. […] [I]n later years, when I by and by had lost many customers and generally came under economic pressure, my natural dislike for the shoemaker profession arose again, and I confess freely that my fervour cooled down […]. When I started out in 1838, I was still young and inexperienced in many respects, I had credit, too, more than was actually healthful, and so I ventured, with the best intentions, and good trust, many things, I later repented […].’

53 See, for example, STABS Justiz J7, Einzelne Concurssachen, 1846–1852, interrogation of Johann Carl Peschel, 30 April 1849; interrogation of Niklaus Riedtmann, 5 July 1849.
54 STABS Justiz J7, Einzelne Concurssachen, 1846–1852, interrogation of Friedrich Hodel, 21 April 1846.
Hodel recounted his start in the profession contradictorily, at the same time allegedly burdened with heavy debt and facilitated too smoothly with easy credit. The narrative then shifted to depictions of apathy and a change of mood, admitting a ‘natural dislike’ for his profession. Then, again, the narrator underlined his good intentions, and pointed to the commonplace of inexperienced youth. Friedrich Hodel refered to ‘trust’ to describe the suppliers’ attitude towards him. While this particular term is not common in the source base under review, the esteem one received from others could help balance out financial dealings over a certain period of distress. He would have fallen into the condition of Falliment even earlier, an insolvent said, had it not been for the ‘leniency’ and ‘consideration shown in respect to my otherwise uprightness and honest conduct’ by a ‘local, respectable trading house.’ Yet credit, as a resource claimed, could quickly disappear; in some instances the insolvents pointed to the pace of debt recollection and deplored how they themselves had run out of time. When a police officer reproached a bankrupt mason for having ‘exploited the bestowed credit until the last moment & piled debts on debts’, the latter responded, he had never ‘abused his credit carelessly’, but ‘then I suddenly became hustled from all sides, and couldn’t hold myself up any longer.’ The ‘piling up of debts’ (Schuldenmachen) was, then, the counterpart to ‘having credit.’ Whereas the authorities pointed out what they saw as a careless habit of paying old household debts with new ones – thereby alluding to the standard vice of excess consumption – the interrogated insolvents frequently emphasized a difficult professional start from which they never managed to recover. As debtors

56 Only in one other instance an insolvent told he initially had ‘confidence’ (Vertrauen) and good outlook in his trade, while in another case an insolvent reported that ‘misguided trust’ had led him into fatal enterprises. See STABS Justiz J7, Einzelne Konkurssachen 1836-1845, interrogation of Christoph Holzach, 22 July 1845; STABS Justiz J7, Einzelne Concurssachen 1846–1852, interrogation of Johann Jacob Reischacher-Hirt, 26 January 1848.
57 STABS Justiz J7, Einzelne Concurssachen 1846–1852, interrogation of Valentin Rimmensperger, 16 Oct. 1847. Similarly, see interrogation of Heinrich Bruckner, 14 July 1848.
in the police interrogation translated their financial dealings into terms of personal relations, a
prosecuted claim would be depicted as violation of the debtor’s integrity. A rapid settling of
accounts, ‘quickly and heedlessly enforced’, as one insolvent said, was interpreted as a hostile
act. 60 Vice versa, the fragile balance of countless credit arrangements was further endangered
when others failed to make their payments or when a co-signed guarantee became due, leading to
cascades of unmet debts. 61

The virtues and appearances on display, essential to navigating everyday credit, depended
ultimately on the household’s gendered order with its spheres, tasks, duties, and expectations. A
failed domestic economy could provide a ready explanation for insolvency, since financial
household dealings were relegated to women. 62

‘Well, I don’t know that; there must have accrued quite many debts for a long time’, Johannes Haering, a
sixty-five year old blacksmith told the police: ‘I have in my lifetime given my monthly earnings of c. Fr.
36. - into the household, and still give it, since the death of my wife, which occured two years ago, to my
daughter, and do not concern myself with it [bekümmere mich weiter nicht].’ 63

Yet to shift the responsibility on to the (deceased) wife or daughter was only one way of
justification. Several bankrupts claimed that after their divorce they lost esteem in their
community and forfeited their credit. 64 When they alluded to marital disputes or to the absence of
a wife, 65 they addressed, for the purpose of explanation, a normative arrangement with gendered

60 STABS Justiz J7, Einzelne Konkurssachen 1836–1845, interrogation of Christoph Gysin Rosenburger, 8 May 1845. Another
salient example is the interrogation of Ludwig Schwörer, 4 Nov. 1845.
61 STABS Justiz J6, Einzelne Rehabilitationen 1846-1856, request by Franz Schaub, 7 June 1851; request by Johann Ludwig
Hagmann, 27 June 1851.
62 Amanda Vickery, ‘His and Hers: Gender, Consumption and Household Accounting in Eighteenth-Century England’, Past and
Politics in England, c. 1600-1900 (Manchester / New York, 2005), 17; Bettina Heintz and Claudia Honegger, ‘Zum
63 STABS Justiz J7, Einzelne Konkurssachen 1836-1845, interrogation of Johannes Haering, 3 November 1845.
64 STABS Justiz J7, Einzelne Konkurssachen 1836–1845, interrogation of Abraham Oppliger, 5 November 1845; STABS Justiz
J7, Einzelne Concurssachen 1846–1852, interrogation of Rudolf Karli, 10 July 1846.
habitual practices and work tasks which could not be sustained without its female part. Other insolvents represented themselves as caring heads of households (Hausväter) who led their household in a proper way. In any case, the bankrupts pointed to the importance of public display. This was also central for the inn as a space of a plebeian public and sociability. Authorities intervened here by preventing insolvents with a publicly announced interdiction from entering a inn. One insolvent asked to be spared this special penalty of honour. He did not object to losing his civil rights but begged not to be banned from the tavern ‘because I fear the disgrace and detriment this would bring over me […]’. Confronted with the police officers’ frequent reproaches of drinking and careless housekeeping, many bankrupts claimed to be resentfully slandered by others and thus rhetorically translated their situation into a series of interpersonal hostile relations. They called for witnesses and insisted that ‘nobody has ever seen’ them drunk or that they were never picked up by the police in the tavern after hours (Übersitzer), always referring to the problematic of being seen, of public appearance.

The interplay between social existence and inner existence was of paramount importance in the interrogated insolvents’ tales. The interrogation had to complement and confirm the authorities’ encoding. The interrogated insolvents largely complied to this role the interrogators assigned

66 This does not imply that there existed only one current model of household; nor drew the normative order of a household necessarily on arrangements which Otto Brunner has, with recourse to Wilhelm Heinrich Riehl, termed das ganze Haus. Rather the household is to think of, as David Sabean has pointed out, a site of tension: of implicit contracts, claims, and expectations between spouses and generations. See Otto Brunner, ‘Das ‘ganze Haus’ und die alten Hausordnung’ in id., Neue Wege der Verfassungs- und Sozialgeschichte (Göttingen, 1968) (1956), 103-127; David W. Sabean, Property, Production, and Family in Neckarhausen, 1700–1870 (Cambridge, 1990), chap. 3. For a critique on Brunner, see Valentin Groebner, ‘Ausser Haus: Otto Brunner und die alten Hausordnung’, Geschichte in Wissenschaft und Unterricht, 46 (1995), 69-80.


69 STABS Justiz J7, Einzelne Concurssachen 1846–1852, interrogation of Christoph Grey, 28 May 1849.

70 STABS Justiz J7, Einzelne Konkurssachen 1836–1845, interrogation of Rudolf Kübler, 17 Feb. 1845; interrogation of Johannes Haering, 3 November 1845; interrogation of Ludwig Schwörer, 4 November 1845; STABS Justiz J7, Einzelne Concurssachen 1846–1852, interrogation of Jacob Mangold, 24 January 1849; interrogation of Niclaus Schimpf, 11 October 1849.
them, all the while they employed a specific semantics of modesty. In their narratives, they framed their economic dealings into personal terms, including emotions and moods. The loss of credit was intrinsically bound to the regard of others. The insolvents emphasized the importance of appearance in differentiated publics, that affected them in their inner, personal life.

4. Contested and Ambivalent Property

A liberal conception of property as exclusive ownership, which emerged and became reinforced in the nineteenth century, constantly collided with everyday economic life and its relative, aspect-oriented usages of property in which use rights, deferred payment, installment, barter, lending, leaseholding, appropriation and re-usage of goods, claims and counter-claims marked the workings of an in many respects informal economy. These complicated property relations involved difficulties in assigning and even delineating assets in bankruptcy cases. When police officers routinely asked the insolvents how much money, according to their own estimation, the creditors forfeited in their case, the bankrupts virtually never came up with a correct answer, or claimed to have no idea at all. This conspicuous ignorance might have been a tactical move. Also, insolvents were not present when an official inventory of the unmet claims of the creditors was conducted. Yet the answers given in the police interrogations might also point to the complicated property relations, which led to contradictory assessments. The president of the Justizkollegium reflected on the ‘extraordinary volume of the ‘negative fantasy’’ of the Falliten who frequently contested the official inventory: ‘Everybody finds here & there indications for


72 This changed in 1855 and bankrupts by then had to attend the creditors’ negotiation on the remaining assets. See *Verwaltungs-Bericht des Kleinen Raths an den Großen Rath des Kantons Basel-Stadt über das Jahr 1855*, 74.
excuses which let the whole procedure appear useless and superfluous.\textsuperscript{73} Ongoing uncertainty and disquiet frustrated the proceedings.

The most difficult asset to assign by the authorities was the female marriage portion or dowry. Here marital affiliation, the household’s gender order, and the wife’s family lineage intersected. The dowry, then, was not a property with informal traits such as the ones discussed above, but one in which different domains of formality stood in friction. In judicial discussion, the marriage portion figured as technically ambivalent, being located at the intersection of insolvency law and marital property law. This border position points to a larger potential conflict between a concept of contractual relations on one hand, and a concept of the household on the other.

Before going bankrupt, a husband could use his wife’s dowry for his financial dealings.\textsuperscript{74} He could back a debt specifically with the wife’s dowry as collateral, if the wife consented in writing.\textsuperscript{75} In the case of insolvency, the gender tutelage for the insolvent’s wife was handled, as it was for spinsters, divorcees, or widows, by the guilds. Assuming gender tutelage, the guilds’ influence increased compared to early modern times when women frequently testified before court.\textsuperscript{76} In practice, the guilds pursued their own economic interests while pooling these overall

\textsuperscript{73} STABS Justiz J8, Collocationen 1852–1859, President of the Justizkollegium to the mayor and minor city council, 16 May 1854.
enormous sums of women’s dowries. Yet in theory, the wife’s guardian’s task was to protect her interests. In the case of insolvency, the wife’s portion had a privileged position in the remaining assets. A wife could take back her mobile assets if they were still in place, and moreover, she had a privileged claim on the lost assets. In that sense, the supposedly pre-modern institute of the dowry can be seen as an individual female property. As recent studies on dowries have shown, this property was specifically conceptualized as a credit of a wife vis à vis her husband and it was a potential source of legal and financial agency. Evidence gathered from outside Basel further indicates that the inconsistent legal status of bankrupts’ wives promoted their financial agency. For example, a statute in Zurich from 1810 stated that

‘experience has shown that the wives of Falliten after the Falliment of their husbands mostly remain without supervision [Aufsicht] and often, while neglecting several respective statutes, do whatever they like with their saved female portion [nach Belieben schalten und walten] whereby for both public credit and the civic order very detrimental consequences arise [wodurch für den öffentlichen Credit sowohl, als für die bürgerliche Ordnung sehr nachtheilige Folgen entstehen] […]’.80

However, it seems that in Basel the tutelage system, managed by the guilds, worked more rigorous than in Zurich. Contradictory practices and appropriation of inconsistent legal situations aside, the legal discussion on the subject was rooted in a patriarchal view which stressed order and hierarchy within the household. This view led to two different arguments. The first

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77 Wecker, ‘Geschlechtsvormundschaft’, 90.
78 On the different classes of creditors in insolvency proceedings, a mechanism first instituted in early modern town ordinances in order to invigorate credit markets by providing legal security, see Sibylle Hofer, ‘So haben Wir zur Beförderung des Credits vor nöthig befunden (…)’. Kreditsteuerung durch Konkursrecht in der frühen Neuzeit’, Zeitschrift für Neuere Rechtsgeschichte, 26 (2004), 177–88.
80 Gesetz, betreffend die Bevogtigung der Eheweiber von Falliten, 13. Dezember 1810, in Offizielle Sammlung der von dem Großen Rathe des Cantons Zürich gegebenen Gesetze und gemachten Verordnungen, und der von dem Kleinen Rath eramierten allgemeinen Landes- und Polizey-Verordnungen (Zürich, 1811), iv. 383. Also, Albert Vogt in his study of a village in canton Solothurn concludes that a husband’s bankruptcy furthered a wife’s agency and points to the active public roles of insolvent’s wives before court, especially in libel suits in which women defended the family’s honour if their husband had lost his civil rights. See Albert Vogel, Adermannsdorf: Bevölkerung, Wirtschaft, Gesellschaft und Kultur im 19. Jahrhundert (Zurich, 2003), 201–2, 694.
highlighted female need of protection by the law, the second marital consent and female
submission to her husband. These arguments were not mutually exclusive; for example, the legal
scholar Andreas Heusler, who later wrote the first draft of the federal bankruptcy law, balanced
out both lines of argument.\(^\text{81}\)

As a general tendency, a woman’s claim for her portion in an insolvency proceeding was
progressively pushed back during the nineteenth century. For the dowry as a credit a wife granted
to her husband did not have the same status as other credits, as changing modalities for the
rehabilitation of bankrupts’ demonstrate. As a precondition for rehabilitation of a Fallit, all
creditors had to be repaid by the bankrupt himself. This general rule was tightened as contractual
relations became strengthened in the context of expanding capitalist conditions. By 1849, a
insolvent had to prove in detail that his creditors not only declared themselves ‘satisfied’ in
writing, but were in fact paid.\(^\text{82}\) Yet for the female marriage portion the exact opposite
development can be observed. Already in 1827, a report of the civil court officials examining the
rehabilitation of a Fallit came to a somewhat paradoxical conclusion. The Fallit in question failed
to reimburse his wife’s dowry, yet had repaid the other creditors. The officials, however, no less
granted rehabilitation, by concluding that ‘the relationship of a wife to her husband’s funds is of
the kind that she is not a creditor vis à vis him, but only has a privilege vis à vis other creditors
[…].’\(^\text{83}\) This wife was in the paradoxical situation of not being a creditor and of simultaneously
being privileged as opposed to other creditors. The argument was that a wife should submit to her
husband’s lot and that she also would benefit from his rehabilitation. Thus this intra-household
credit had a special status, positing normatively the household as a domain which stood, partially,

\(^{81}\) Andreas Heusler, Motive zu dem Entwurf eines Civilgesetzbuches für den Canton Basel-Stadt, Basel 1866, Pt 1, 33, as quoted in Münch, Basler Privatrecht, 144.

\(^{82}\) Der Statt Basel Statuta und Gerichts-Ordnung… (Basel, 1849), §276.

\(^{83}\) STABS Justiz J6, Einzelne Rehabilitationen 1764–1845, report by the Gerichtsämter on the rehabilitation of Joseph Dollinger, 13 Sep. 1827, emphasis in original.
in contrast to contractual financial dealings. In 1867 this policy with respect to rehabilitations was retained in a law. The first draft of a federal bankruptcy law by 1874 went further. According to it, the wife could only reclaim 50 percent of the total of her wealth. Basel adopted this position in 1884 while simultaneously granting the wife the possibility to request for separation of property before her husband went insolvent, although with several impediments. Finally, the doctrine of a privilege over 50 percent was instituted in the federal bankruptcy law of 1889. Overall, the security of creditors was heightened at the expense of the wife’s position. This tendency to diminish the guarantee on the wife’s assets can be integrated in a framework of a changing pattern of kinship alliances with respect to property in the context of expanding capitalist conditions and class formation. According to this interpretation, the influence of the wife’s family with its longterm interests in lineage declined, and a husband’s power to appropriate and to flexibly mobilize female capital augmented.

To these ambiguities enshrined in a fractured, yet formalized legal framework, came the practical ambiguities since the female marriage portion was an emblematic site of tensions over intra-household power. A final case shall exemplify this. When the tailor Abraham Wartenberg was declared insolvent in 1834, his wife’s portion of Fr. 6429—was transferred to the guild Saffran, and his creditors lost Fr. 11'205.—. When his mother died in 1845, he became able to repay most of his creditors with an inheritance of roughly Fr. 7000.— which added up to an earlier inheritance. In 1848 he convinced the remaining creditors, among them his wife’s uncle, to grant

85 [Andreas Heusler], Bundesgesetz [sic] über Schuldbetreibung und Konkurs. Erster Entwurf mit Motiven (Berne, 1874), 123ff; Münch, Basler Privatrecht, 144-5.
86 Münch, Basler Privatrecht, 143.
him a remission, and he declared to have repaid all his creditors. He then requested to become rehabilitated. The investigating officials were convinced by this because they counted Wartenberg’s wife’s uncle as a relative. Granting intra-familial credits a special status, the authorities did not insist on full repayment. Yet the officials refused to hand Wartenberg over his wife’s portion since they assumed that his ‘personality […] hardly gives guarantee for a responsible custody of even small funds […]’. Wartenberg saw this as a “motion of non-confidence” and declared to the attending official, ‘that he, given such a restriction, would forever be a bounded man’ and vehemently refused this precondition. The reporting head of the justice department suggested to the mayor to deny the request for rehabilitation. The authorities decreed that the marriage portion remained in the guild’s custody, except for a sum of Fr. 1000—which should be handed over to Wartenberg. The latter did only give in having realized his weaker position. Yet still after that, he continuously assailed both the guardian and the attending civil court official, insisting on what he perceived as his right as a head of household. In order to get hold of his wife’s substantial money, he utilized a hegemonic argumentation that stressed male authority in the household. Masculine sovereignty was, according to this line of argument, bound to marital dominance. Wartenberg claimed that being re-instituted in his civil rights was inseparable from the full control over his wife’s property. To conclude, the female marriage portion shows the difficulties the authorities encountered when examining, delineating and assigning assets. Located at the intersection between family lineage and marital affiliation, it had an ambivalent status as an intra-household credit. Thus it was subject to constant contestation and legal redefinition.

92 STABS Justiz J6, Einzelne Rehabilitationen 1846–1856, Gerichtsämter, 10 May 1849.
5. Male Honour and the Variance of Social Experience

In their requests for rehabilitation insolvents asked to be reinstated in their sovereignty as citizens. This highly gendered notion embraced public and private dimensions. In 1848, the founding moment of the Swiss federal state, questions of civic inclusion and (male) suffrage became matters of intense public debate. The turbulent years 1847-52, marked by a short Civil War, by competing religious conceptions of social order and by diverging visions of the nation, saw a massive wave of popular nationalist mobilisation. The counterpart to civic inclusion, the loss of civil rights, also became a highly charged touchstone for questions over social order. Yet despite the increasingly national horizon of these themes, the decision whether to grant or forfeit civil rights remained in the realm of the municipalities, mainly, because civil rights were linked to the right to communal poor relief. Due to the municipalities’ restrictions, about 17 percent of the Swiss adult men (and in Basel almost 50 percent) were precluded the right to vote in 1848.

When in 1848 a society of *Falliten and Accordants* (*Falliten- und Accordantenverein*) wrote a petition to the mayor, it voiced a theme of national inclusion to a government that mainly followed corporative, Old Regime modes of town-rule. The society of *Falliten* unsuccessfully requested to allow insolvents to participate in the vote for the national constitution, writing that ‘the Fallit’s heart beats as warmly for the fatherland as the active citizen’s[...]’. The society of *Falliten* also petitioned that insolvents should be allowed to execute low administrative offices

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and to be included in military ranks, which in the nationalist moment of 1848 touched on an especially sensitive point. The responsible committee of the city council rejected the request, detailing that ‘with few exceptions, all public offices demand that the one who is consigned [to the office] enjoys the public confidence.’ Since Falliten were ‘stripped of this confidence’, they were judged not capable to officiate.\textsuperscript{97} Also, the cantonal military commission answered that a military rank could only be held by ‘an upright standing man’, that is, a solvent, sovereign citizen.\textsuperscript{98} Yet military service was one of the few instances in which the newly instituted federal state actually transformed cantonal conditions, and by 1850 the federal military commission planned to include Falliten into military service.\textsuperscript{99}

Although written in this context, the individual requests for rehabilitation of bankrupts scarcely reflect the rhetoric of nationalist urgency, in fact highlighting both more practical and more general symbolic dimensions of social status. What the petitions did address as central concern was male honour. The insolvents thereby represented themselves as caring heads of households, underscoring a set of duties the authorities had to acknowledge, even if it run counter to other duties such as to pay one’s debts. The household thus provided a specific register of justification in their writing. As has been noted before, the household invoked a domain which was complementary to, though by no means disconnected from, contractual market relations. Rudolf Hunziker, the day-labourer whose account of the ‘deepest misery’ of his Falliment stood at the beginning of this chapter, asked for his rehabilitation in order to become ‘reinstituted’ into his

\textsuperscript{97} STABS Justiz J 4, Rechtliche Folgen des Falliments, bürgerliche Stellung und Ämterfähigkeit der Falliten 1782–1863, Petitionskommission, 19 Aug. 1848.
\textsuperscript{98} STABS Justiz J 4, Rechtliche Folgen des Falliments, bürgerliche Stellung und Ämterfähigkeit der Falliten 1782–1863, Militärkollegium, 26 Aug. 1848.
‘capacity to act as a honourable citizen.’\textsuperscript{100} He explained how he had ‘faithfully educated’ his three children, and he reminded the mayor that at no point in time he let his family become a burden to communal assistance. The baker Johann Jakob Basler, on the other hand, recounted how his \textit{Falliment} forced him to do precisely this: he had to commit his child to the orphanage ‘and, which hurt me no less, let me appear in line with housefathers who, through carelessness and extravagance, throw themselves and their families into misery.’\textsuperscript{101} Not to ‘appear in line with’ careless housefathers speaks of an attempt to break with the classifications of \textit{Falliment}: in that sense, the requests for rehabilitation also document attempts to counter the social ascriptions inherent in the process of \textit{Falliment}. By employing the normative figure of the caring housefather the petitioners entered the semantic field of morality which was marked by profoundly polysemic terms. Stressing the moral integrity and the duties of a father who ‘faithfully educated’ his children enabled an insolvent to use the concept of morality against the current of the authorities’ argument. This is not to assert that the petitioners fully appropriated and redefined those terms, nor that they came up with morally grounded legitimations that directly opposed the authorities’ view (after all, these were administrative requests of individualized subjects, not moments of collective action). The modes of justification the insolvents employed were rather complementary to the authorities’ semantics of morality, making use of a gradual variance of meaning in order to interrupt the authorities’ encoding.

The attempted break with the authorities’ encoding of the \textit{Falliten} also comes to the fore in the highly individualized narratives some insolvents told in their requests. In contrast to the rhetorics of modesty the insolvents employed in the police interrogations, some fashioned their requests for rehabilitation as elaborated tales of misfortune, and they pointed to their striving for a

\textsuperscript{100} STABS Justiz J6, Einzelne Rehabilitationen 1846–1856, request by Rudolf Hunziker, 5 Sept. 1854.
\textsuperscript{101} STABS Justiz J6, Einzelne Rehabilitationen 1846–1856, request by Johann Jakob Basler, 25 Dec. 1849.
honourable living. The silk weaver Johann Ludwig Hagmann, who was a non-citizen resident in Basel, recounted how he had to pay for a debt he had co-signed for someone else, how his family was affected by sickness, how he left the country in order to find work yet had to return with less than with what he had started out, and, finally, how a fire burned his house down and destroyed all his mobile assets including four weaving looms. On top of all these ‘misfortunes through no fault of my own’ came, following his Falliment, what he considered the most serious ‘misfortune’: ‘the withdrawal of my residence permit.’ The threat of expulsion points to a practical dimension of citizenship that for Hagmann and many others was of far more importance than, though inherently intertwined to, its symbolic dimension.102

Insolvents did not passively await their rehabilitation. The authorities continuously deplored that bankrupts besieged their creditors in order to obtain a statement of being paid.103 The court officials investigated whether the supposedly satisfied creditors actually were paid, always lacking solid information. Whether a reduction on the debt granted by a relative or a friend would count as a statement of being paid or not, also involved tedious negotiation.104 Payments by relatives were an especially salient issue since inheritance and advancements of inheritance were the main and often the only way of acquiring the means to become rehabilitated. Authorities were acutely aware of this. When interrogating a bankrupt, the court official asked the standard question if he could ‘expect something from anyone’s side’ (Ob er von irgendeiner Seite noch etwas zu erwarten habe), meaning inheritance from both the wife’s and the insolvents’ family.

102 STABS Justiz J6, Einzelne Rehabilitationen 1846–1856, request by Johann Ludwig Hagmann, 27 June 1851. Similar examples, among others, are the request by Friedriy Gerster, 20 Nov. 1854, and by Hermann Wetzel, 10 Oct. 1851. See also the request by the silk weaver Johann Jakob Grieder, 2 Dec. 1856, who although having obtained rehabilitation was scrutinized by the residence administration’s office (Niederlassungskommission) since he possessed no assets whatsoever; authorities in this case hesitated to prolong the residence permit to someone who possibly might require poor relief in the future.

103 STABS Justiz J6, Einzelne Rehabilitationen 1846–1856, rehabilitation of Johannes Deck, report by the Justizkollegium, Jan. 6 1849; rehabilitation of Jakob Konrad Ungerer, report by the Justizkollegium, 22 June 1852.

The authorities were, of course, interested that creditors were paid. Yet they also had to make sure that the insolvents did not reimburse their creditors by taking up new debts from relatives. Confronted with intricated family relationships and their intermingled transfers, the court officials faced difficulties of assessment.

Finally, the requests for rehabilitation show how varying the insolvents’ outlooks with respect to Falliment were. For sure, the highly symbolically charged condition strongly affected many in their personal and social selves. Also, as has been detailed, the practical consequences of the loss of civil rights were of pivotal importance, first and foremost the threat of eviction from the city. And yet it seems that in the everyday life of some Falliten their legal situation was of only small significance. The number of requests for rehabilitations remained low, which is probably due to the fact that many insolvents never became able to reimburse their creditors. Also, for obvious reasons the available sources say nothing about the motives of those who did not petition for rehabilitation. But certain requests suggest that some insolvents were only little impaired by the legal sanctions, and possibly some among them simply did not bother to become rehabilitated. To repeat an observation already made, other social sanctions, such as the interdiction to enter an inn, in some cases were seen as more incisive than the loss of civil rights.

At least some of the requests for rehabilitation give the impression that some bankrupts did not pay much attention to the procedures of Falliment. The day-labourer and non-citizen Jakob Lüdin claimed he simply had not realized that he was about to go bankrupt in the first place: he ignored the court summons ‘and when I learned about the consequences of the procedure, it was too late […]’.105 The tailor Friedrich Ungerer wrote in 1855 that he did not notice that a request for

rehabilitation, which he had made two years before, had been rejected at that time. It does not seem that his loss of civil rights restricted him much in his daily affairs. Ungerer had correctly repaid his creditors, but he said to have ‘forgot to attach the receipts[…]’. And since he was living in a village outside Basel, the administration’s negative decision did not reach him, or at least so he wrote. Only when Ungerer had to open up a business on his own because he increasingly turned deaf and was no longer able ‘to easily earn something among other people’, he again thought of his rehabilitation.106

These examples are given not to deny the force of the condition of Falliment, but rather to show the variance of experiences and attitudes towards it. Instead of a pervasive, coherent set of norms one finds a variety of situatively differentiated effects, which were perceived and assessed by the Falliten in a multiplicity of ways. The social life of the legal category of Falliment, then, appears as more multilayered than a notion of homogenous bourgeois morals assumes.

6. Conclusion

‘Social death’ or ‘civic death’ (bürgerlicher Tod) was a powerful trope to organize experiences at the margins of nineteenth-century bourgeois society, among them the experience of Falliment.107

Without neglecting the force of this trope, this chapter has, however, highlighted rather inconsistent situations and a variety of experiences; active insolvents and in many respects unknowing and unaware authorities (who nevertheless had authority). The classifications on which the legal category of Falliment was based upon were no binary procedure, but involved a differentiated and contested process. This was especially the case with morality. Morality

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106 STABS Justiz J6, Einzelle Rehabilitationen 1846–1856, request by Friedrich Ungerer, 5 June 1855.
provided a link: it connected notions of ‘individuality’ and ‘social existence’ which were both at stake in an insolvency procedure. Marx, in his reflections on credit and money, claimed that trust in bourgeois society was based on distrust, and that in a debt relationship, in terms of moral evaluation, the inner existence became scrutinized (in a way Marx himself, at this point of his thinking, probably found deeply immoral). Clearly the authorities’ moral judgements in Basel’s bankruptcy proceedings had an economic underside, or to phrase it differently: the normatively structured regard had economic effects since only those bankrupts who would regain flawless reputation would achieve a state of creditworthiness again. Ex negativo, the tales about losing credit, which the interrogated insolvents recounted, confirm how a moral logic and economic considerations were closely intertwined. Yet morals were also intrinsically bound to the calculative procedure of examining financial failure itself; morality framed the authorities’ process of classifying – it was part of their epistemic practices. Facing a constant lack of information and having to navigate through situations of uncertainty marked by the insolvents’ intricate financial and social relationships, the civil court officials quickly encoded the singular insolvency case in their grammar of moral judgement. In that sense the powerful assigned attributes of careless householding and lack of industriousness speak also of a profound insecurity of knowledge on the authorities’ part. As encoding abstracts from social contexts and elides information, the interrogation of the insolvents had to complement and confirm the authorities’ first encoding. When questioned, the insolvents largely complied to their ascribed role, as their modest stories indicate. Only when requesting rehabilitation, the insolvents attempted to interrupt the authorities’ encoding by telling individualized stories and by justifying themselves more elaborately.
Morality as a grid of comprehension documents a continuous problematic of knowledge-gathering on the ground. The verbose, formulaic catalogue of vices and missteps the court officials enumerated in their reports can be read as an expression of epistemic anxiety. The moral judgements set powerful social facts while being based on uncertain ground. It is debatable to what degree this morality became replaced by more objectified forms of knowledge. In their works on credit reporting agencies, Berghoff and Lauer assert that moral ‘character rating’ was increasingly superseded by what they term more solid information and systematic practices of gathering, filing, storing, and mobilizing information. Yet the insolvency proceedings in Basel assigned to morals more than a compensatory function in knowledge-gathering. However, it is true that by the 1850s the authorities increasingly complained about the weak information in their reports. The precarious knowledge the officials had, which was constantly undercut by debtors who eluded the procedures, made valuables disappear or who disguised themselves, finally led the authorities to abandon their moral reports on the causes of bankruptcy. Eventually by the late 1860s these reports were increasingly rendered in tabular form, and in 1876, in accordance with new administrative arrangements and a new cantonal insolvency law instituted the year before, the court officials stopped their reports to the council altogether. ‘[T]he available means allow only for incomplete accounts on vague foundation’, they concluded and, on the other hand, the cases for pursuit in criminal justice by then were directly delivered to the respective office. But at the same time the grammar of moral judgement continued to frame the legal situation of Falliment. For when in 1867 a new law concerning the rehabilitation of insolventers was introduced, the precondition for rehabilitation hinged on the insolvents’ ability to prove in detail that their

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108 STABS Justiz J8, Collocationen 1852–1859, Justizzollegium to mayor and minor city council, 9 January 1855; Justizzollegium to minor city council, 25 Sept. 1855; STABS Justiz J1, Allgemeine Betreibungs- und Konkurssachen, Police directorate to minor city council, 23 Aug. 1855; civil court president to minor city council, 10 Sept. 1855.

109 STABS Justiz J8, Collocationen der Stadt 1869–1880, report of the second president of the civil court to the mayor and city council, 7 July 1876.
bankruptcy had occurred through no fault of their own.\textsuperscript{110} In order to do this, insolvents had to inscribe themselves into the very same catalogue of morality as the one which had guided the officials in the first place.

One pivotal point in the argumentation of all actors involved – interrogating police officers, reporting court officials, council members deciding on a rehabilitation, and the insolvents themselves – was a notion of the household with its gendered order. This notion lay at the heart of the contradictory, insecure status of the female marriage portion as well. Also, the polysemic quality of moral terms came especially to the fore in relation to the household. The household as a forcefield of both private and public expectations on proper behaviour proved to be a ready ground for imputation and explanation, yet also for the registers of justification the insolvents employed. Morality thus both provided ‘semantic security’ while at the same time being a site of incoherence.\textsuperscript{111}

\begin{footnotesize}
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  \item STABS DS BS 9, \textit{Rathschlag und Gesetzesentwurf über die rechtlichen Folgen von Fallimenten, dem E. Großen Rath vorgelegt am 3. Dezember 1866} (=Ratschlag 357).
  \item Boltanski, \textit{On Critique}, 78-81.
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