The Purloined Debtor: Edgar Allan Poe’s Bankruptcy in Law and Letters

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This Article represents the first interdisciplinary case study of Edgar Allan Poe’s bankruptcy as an inflection point in the legal and cultural history of debt. Although Poe hardly leaps to mind for portrayals of legal procedure, much of his oeuvre reveals a terror of legal process as an interstitial principle. The anxiety around identity in Poe’s work reveals an ongoing struggle between an individual subject and two opposing yet equally degenerate legal statuses: possession and indebtedness. This opposition renders a distinct form of legal process legible in these texts: the then-emerging law of bankruptcy. Poe declared bankruptcy at a unique moment in American legal history, where for thirteen months in the early 1840s, America had a debtor-focused bankruptcy law under which a bankrupt could seek protection. Poe’s case, read alongside his literary output, reveals both legal and narrative contradictions at the heart of bankruptcy, which the 1841 Act did a poor job of resolving. On the one hand, bankruptcy reframes the identity of the debtor, who becomes the object of a quasi-inquisitorial process. On the other, bankruptcy restores some degree of material agency to the debtor as a subject, often at the expense of creditors.

INTRODUCTION

At the start of “The Pit and the Pendulum” Poe’s narrator—an unnamed prisoner of the Spanish Inquisition—says, “I saw the lips of the black-robed judges . . . I saw that the decrees of what to me was Fate, were still issuing from those lips. I saw them writhe with a deadly locution. I saw them fashion the syllables of my name.”1 Poe scholars have noted his affinity for nameless narrators such as this one.2 His protagonists are, frequently, outsiders whose retreats from the world end, as David Galloway notes, “in

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madness and despair” because “such a retreat is, finally, a retreat into the self.”3 If, however, Poe typically uses namelessness to signify this collapse into interiority, it serves a somewhat different end in “Pit,” where the protagonist faces very external threats: mutilation and death at the hands of a historically specific tribunal. Here, the fact of being named is terrifying because it renders the narrator the object of legal and penal process. In passing sentence on the person named, the judges have established his identity as an object of legal torture.

Poe hardly leaps to mind for portrayals of legal procedure; he is perhaps best known for his grotesquely-dying beautiful women.4 Many have suggested that Poe’s near-monomaniacal focus on this combination of beauty and horror was the product of his own history, in particular the death of his young wife Virginia, poverty, and alcoholism.5 However, the institutionalized legal process of bankruptcy framed some of those biographical events, and a related motif recurs throughout Poe’s stories and other writing, far more subtly than in “The Pit and the Pendulum.” Much of his oeuvre reveals a terror of legal process as an interstitial principle: specifically, the terror of fixed legal identity linked to an estate that is somehow corrupted. For many of Poe’s narrators, naming is terrifying because it is a means of fixing a legal identity relative to a corrupt ancestry. Others shun their names to sever their personal financial ruin from their family’s history. The anxiety around identity in Poe’s work reveals an ongoing struggle between an individual subject and two opposing yet equally degenerate legal statuses: possession and indebtedness. This opposition renders a distinct form of legal process legible in these texts: the then-emerging law of bankruptcy.

Poe’s bankruptcy occurred at a unique moment in American legal history. Aside from a brief stretch between 1800 and 1803, there had been no federal bankruptcy law before, and state insolvency laws could not provide for a discharge of debts.6 But for thirteen months in the early 1840s, America had a debtor-focused bankruptcy law where a bankrupt could seek protection for the first time.7 Some forty thousand individuals, including Poe, filed for relief under the new law.8 Dogged by debts, he took a while to put together

4. See, e.g., Jenny Webb, Fantastic Desire: Poe, Calvino, and the Dying Woman, 35 Comparatist 211 (2011); Brian Norman, Dead Women Talking: Figures of Injustice in American Literature 22-34 (2014). He famously declared that “[m]elancholy is . . . the most legitimate of all the poetical tones,” especially “[w]hen it most closely allies itself to Beauty,” and that therefore “the death . . . of a beautiful woman is, unquestionably, the most poetical topic in the world.” Edgar Allan Poe, The Philosophy of Composition [1846], in Usher, supra note 1, at 484-86.
6. Sturges v. Crowninshield, 17 U.S. 122, 199 (1819) (holding that states “cannot constitutionally introduce into such laws a clause which discharges the obligations the bankrupt has entered into” under the Contracts Clause).
8. Edward J. Balleisen, Vulture Capitalism in Antebellum America: The 1841 Federal Bankruptcy
the funds to pay the expenses of bankruptcy and finally filed in December of 1842, just barely before the law was repealed. Following the repeal of this law there would be no federal bankruptcy protection until after the Civil War.  

The bankruptcy system Poe entered in the 1840s was revolutionary at the time and was in fact a remarkable analogue to current Chapter 7 Bankruptcy. The “honest but unfortunate debtor” was required to file a petition for relief under the law. In that petition he would enumerate his assets—provide an accounting of his worldly wealth, if any.  He would also need to provide a list of all his debts, including the name of the creditor and the amount and the nature of the debt. It is unclear if, when he filed for bankruptcy, Poe knew what he was walking into, but the system at the time was rigged in his favor. As Edward Balleisen notes, “Even before the 1841 Bankruptcy Act became law, congressional opponents predicted that it would benefit court officials, newspapers, and the legal fraternity far more than it would creditors.” These predictions came true: Poe’s bankruptcy serves as a case study for just how ethically problematic bankruptcy was under the 1841 Act and helps explain the backlash which led to its quick repeal.

This Article represents the first interdisciplinary case study of the Poe bankruptcy as an inflection point in the legal and cultural history of debt. It shows both how the pitfalls of a short, debtor-focused chapter in bankruptcy history gave rise to the system of today, and how Poe’s indebtedness and bankruptcy helped shape the American Gothic literary forms he made famous. Part I compares bankruptcy law in Poe’s time to that of today, also explaining how bankruptcy came to be and why it was revolutionary. Part II presents a brief life of Poe and collects evidence of the literal and intellectual impact of the law on his life and thought. Turning to his literary work, it argues that Poe’s fixation on the relationship between debt, degeneration, and official naming reflects the terrifying, transformative impact of debt on individual identity in a Gothic framework, as it isolates the narrative subject from the rest of the world. Part III explores Poe’s bankruptcy case from a technical legal perspective, both in the context of the law at the time and hindsight, showing that there were serious conflicts of interest in the case. We conclude by arguing that Poe’s case, read alongside his literary output, reveals both legal and narrative contradictions at the heart of bankruptcy, which the 1841 Act did a poor job of resolving.

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9. Bankruptcy Act of 1867, ch. 176, 14 Stat. 517. That law in turn was heavily modified in 1874 before being repealed in 1878. In 1898 Congress passed a bankruptcy law and this time it stuck; there has been federal bankruptcy protection ever since.

10. 1841 Bankruptcy Act § 1.

11. Id.

12. Balleisen, supra note 8, at 481.
On the one hand, bankruptcy reframes the identity of the debtor, who becomes the object of a quasi-inquisitorial process. On the other, bankruptcy restores some degree of material agency to the debtor as a subject, often at the expense of creditors.

I. A COMPARATIVE ACCOUNT OF NINETEENTH-CENTURY BANKRUPTCY LAW

The 1841 Bankruptcy Act under which Poe filed was not that different from Chapter 7 Bankruptcy today. This Part first presents the background and structure of the 1841 Act to explain the legal environment at Poe’s time. It then describes the modern Chapter 7 to demonstrate the impact of this short-lived Act on the world of today.

A. The 1841 Bankruptcy Act in Historical Context

Bankruptcy originated as a legal remedy for creditors. The first bankruptcy law in England was enacted in 1542, and by 1800 there had been at least thirty-three bankruptcy acts passed, all of which required that a creditor initiate the proceeding. A major innovation was the bankruptcy act of 1706, which introduced the discharge of debts in bankruptcy, but also infamously provided for capital punishment for failure to cooperate. In England bankruptcy law at the time was reserved for merchants and traders who necessarily took risks in the purchase and transport of goods for resale, and the existence of the escape valve of bankruptcy encouraged the development of mercantile society. The actual term “bankruptcy” goes even farther back; it is a remnant of the guild system in which if a member failed to pay his debts his bench at the guild hall would be broken—“banca rupta” literally means “broken bench.”

Although the author Daniel Defoe had proposed a voluntary debtor-initiated system of bankruptcy in 1697, it did not become law, and at the framing of the Constitution bankruptcy remained a creditor-focused remedy. This is the context for the constitutional provision giving Congress the power to promulgate “uniform Laws on the subject of Bankruptcies throughout the United States.” Unlike in other areas where

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17. U.S. CONST. art. I, § 8 (the “Bankruptcy Clause”). Throughout the nineteenth century there was some confusion on if the Bankruptcy Clause meant only bankruptcies in the narrow classical sense—being the insolvency of traders and merchants—or whether it encompassed all insolvencies. This would eventually be resolved by the Supreme Court shortly after the passage of the 1898
such powers were reserved, like copyrights and patents, the first Congress did not see fit to pass a uniform bankruptcy statute. However, the impact of the Panic of 1793 and continuing crises including the Panic of 1797 forced the hand of Congress, which finally passed a federal bankruptcy law in 1800. The 1800 Bankruptcy Act was modeled almost entirely on the English bankruptcy law of the period, and thus provided only for involuntary bankruptcy proceedings brought by creditors, and was limited to merchants and traders. However, under this law a convention developed whereby a debtor would make a single, de minimis trade of goods which would qualify them as a merchant, and a friendly creditor would then “involuntarily” force them into bankruptcy. This was done most famously for the relief of the financier Robert Morris, who was able to discharge almost $3 million (in 1801 dollars) and leave debtor’s prison. Like many provisions passed into law at the tail end of Federalist control, the 1800 bankruptcy law was deeply unpopular, especially with the Democratic-Republicans, and even though it was set automatically to expire in five years, it was repealed in 1803.

One might note the mention of debtors’ prison above and be reminded that in post-revolutionary times American practices regarding debt were sharply different from today’s. However, that would shift in the coming decades—Charles Warren, in his landmark history of bankruptcy law in America, called 1827 to 1861 “The Period of the Debtor.” The era would see the rise of the first serious pro-debtor legislation, first as a major plank of a national party, and then as the first voluntary bankruptcy law.

Despite Congress’s failure to pass another federal bankruptcy law until 1841, the law of insolvency during these decades was far from static. In particular, the era saw the passage of many state bankruptcy acts, often coupled with the ultimately successful movement to abolish imprisonment for debts. During the 1820s and 1830s there were also frequent calls and

Bankruptcy Act, holding that the constitutional grant of power in bankruptcies encompassed all insolvencies. Hanover National Bank v. Moyses, 186 U.S. 181 (1902); see also 2 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES 1113 (1833) (asserting that the Bankruptcy Clause included all insolvencies); Adams v. Storey, 1 Fed. Cas. 141, 142 (No. 66) (C.C.D.N.Y. 1817) (same). The only recorded objection to the clause was from Roger Sherman, who feared that bankruptcies could be punished by death, as was still the law in England. Charles J. Tabb, The History of Bankruptcy Laws in the United States, 3 AM. BANKR. L. REV. 5, 13 (1995) [hereinafter Tabb, History of Bankruptcy Laws].

20. Act of Dec. 19, 1803, 2 Stat. 248; BRUCE H. MANN, REPUBLIC OF DEBTORS 258 (2002) (“Concerned only with the mercantile elite, the Act of 1800 was, in a sense, a last expression of a dying Federalist order.”)
21. CHARLES WARREN, BANKRUPTCY IN UNITED STATES HISTORY 49 (1935).
22. PETER J. COLEMAN, DEBTORS AND CREDITORS IN AMERICA: INSolvency, IMPRISONMENT FOR DEBT, AND BANKRUPTCY, 1607-1900 (1974). As mentioned above, these state laws could not discharge debts.
proposals for a debtor-focused federal bankruptcy law, but none of these proposals succeeded in becoming law. Instead, during this period the best option for an insolvent individual was typically to assign their property for the benefit of their creditors, sometimes called a general assignment. In this system, which saw wide use in the United States compared to sparing use in England, a debtor would hand over their property to an “assignee” who would effectively act as their trustee. Although statutes recognizing this practice would not be passed until the mid-nineteenth century, it was already being done at common law in the eighteenth century.

Following the calamities of the 1837 panic and the aftershock of the 1839 panic, the Whig party saw an opening in the close presidential race of 1840 to appeal to those who had fallen insolvent, and made a federal bankruptcy law a key plank in the platform of a campaign better remembered today for the slogan “Tippecanoe and Tyler Too.” When President Harrison (and very shortly thereafter, President Tyler) took office in early 1841, the Whigs set to work on a bankruptcy law. Despite having won a majority in the Senate the year before, the coalition for a bankruptcy law was profoundly unstable, and the Whigs had to resort to a “logrolling” campaign, whereby they promised in turn to vote for a land distribution bill. The coalition was so fragile that the 1841 Bankruptcy Act was nearly repealed before it became effective, and it was in fact repealed less than two years later. To many, the 1841 Act was a “watershed event;” a revolution that forever changed how America would approach bankruptcy law. Others were much more critical, considering it the worst federal law “since the Alien & Sedition Act.” Presciently, one member of Congress called the 1841 Bankruptcy Act the “Act for the benefit of lawyers, clerks, etc.”

B. Bankruptcy Under the 1841 Act

Under the 1841 Act, for the first time in Anglo-American jurisprudence,

23. BALLEISEN, supra note 19, at 103. The first major proposal for a debtor-initiated bankruptcy law was voted down in the Senate in 1820. McCoid, supra note 16, at 371.
24. Dunham v. Waterman, 17 N.Y. 9, 15 (1858) (“General assignments in trust for the payment of debts are, for the most part, an American device.”).
25. Gray v. Thompson, 1 N.Y. Ch. Ann. 67 (N.Y. Ch. 1814).
26. Id.
27. BALLEISEN, supra note 19, at 104-05. The Whigs were broadly speaking the northeastern party between the collapse of the Federalist Party and the rise of the Republican Party.
28. Id.
30. Id. at 32.
31. TABB, EVOLUTION OF BANKRUPTCY DISCHARGE, supra note 13, at 349.
33. WARREN, supra note 21, at 73-74.
a debtor was permitted to file a voluntary petition for bankruptcy. While under the 1800 Bankruptcy Act relief was limited to merchants and traders, the new law allowed anyone to file. As mentioned above, state bankruptcy laws could not grant a discharge, and thus for the first time the law provided debtors a clear path to a discharge of their debts. Although firm evidence is lacking, it is generally stated that the 1841 Bankruptcy Act was drafted by sitting Supreme Court Justice Joseph Story, based on the 1838 Massachusetts Insolvency Act he also drafted. To effectuate distribution of the assets of the debtor to creditors, the 1841 Bankruptcy Act adopted the concept of an assignee of the debtor for the benefit of his or her creditors.

Accordingly, the new statute also set up certain barriers to discharge to prevent abuse of the system, including denying a discharge entirely to those debtors who had preferred some creditors over others, made various false representations to the court, or engaged in other similar misconduct. The Act also barred from receiving a discharge “any person who, after the passing of this act, shall apply trust funds to his own use.” These rules were not terribly restrictive, given that of the 33,739 debtors who applied for a discharge, only 765 had their discharge denied, allowing for a true fresh start for tens of thousands of Americans.

As Poe’s situation will demonstrate, fees were a major concern under the 1841 Bankruptcy Act. The average case would run between $30 to $50 in fees, the rough equivalent of $1,200 to $2,000 in 2022. These fees, taking several pages to list, would go to everyone from the clerk of the court, to the Marshall, to the Commissioner, the Assignee, and more.

34. Id. Involuntary bankruptcy proceedings against merchants and traders, as the 1800 Bankruptcy Act provided for were also permitted, but any individual could file a voluntary bankruptcy petition. BALLEISEN, supra note 19, at 103.


36. Tabb, History of Bankruptcy Laws, supra note 17, at 17.

37. As mentioned supra note 24, assignments for the Benefit of the Creditor (ABCs) under state law existed then as well (sometimes called general assignments), and the concept and naming may well have been adapted from them. See generally GEOFFREY L. BERMAN, GENERAL ASSIGNMENTS FOR THE BENEFIT OF CREDITORS 1 (2019) (“The assignment process is the functional equivalent of a liquidation under Chapter 7 of the U.S. Bankruptcy Code.”).

38. Tabb, Evolution of Bankruptcy Discharge, supra note 13, at 352.


40. Tabb, Evolution of Bankruptcy Discharge, supra note 13, at 353. The total number of those who were bankrupt under the 1841 Act was over 40,000, as mentioned above. Presumably the difference was in those who filed but did not apply for the discharge.

41. See Letter from Edgar Allan Poe to James Herron, infra note 134.

42. BALLEISEN, supra note 19, at 268 n.8. This is based on the obviously unofficial “officialdata.org” inflation calculator, but the representative figure is helpful.

43. RULES AND FORMS IN BANKRUPTCY IN THE DISTRICT COURT OF THE EASTERN DISTRICT OF PENNSYLVANIA 28 (1841) [hereinafter RULES AND FORMS IN BANKRUPTCY], available at https://hdl.handle.net/2027/hvd.hl27j3/.
C. Modern Bankruptcy Law

The 1841 Bankruptcy Act marked the first appearance of debtor-initiated bankruptcy that we still have today. However, it would be only the 1898 Bankruptcy Act that made bankruptcy permanently available, with proceedings overseen by a referee in bankruptcy and the distribution of the debtor’s assets handled by a trustee, as today. Until 1938 this was the only type of bankruptcy available, until corporate reorganization and individual “wage-earner” plans, now chapters 11 and 13, were formalized into law. The bankruptcy law underwent a full revision in 1978 with the enactment of the Bankruptcy Code, and all references to chapters of bankruptcy refer to it, found at Title 11 of the United States Code.

Originally the only form, and by far the most popular form, of bankruptcy today is Chapter 7 Bankruptcy, sometimes called “Straight Bankruptcy.” Typically, Chapter 7 begins with a voluntary petition for relief filed in federal court, which operates to stay all actions and collection against the person who filed for bankruptcy (the “debtor” or “bankrupt”). With or shortly following this petition the debtor files schedules of their assets and liabilities: any possible interests they might have in property and all claims that are being made or could be made against them. The main assets are typically any real property, vehicles, or valuable chattels, while liabilities will be a list of secured creditors—typically mortgages and vehicle loans, and unsecured creditors like credit cards. Certain obligations like taxes and domestic support obligations are given priority over other unsecured claims and are generally scheduled separately. In effect, a debtor is required to lay their financial life bare in a publicly accessible court filing. Failing to list debts has harsh consequences. Generally speaking, omitting a creditor entirely is more problematic than simply getting the value of the debt wrong, as an unscheduled creditor may lack notice of the bankruptcy. If a creditor disagrees with the valuation of their claim, they can always file a claim in the amount they believe they are owed, at which point the debtor

49. Involuntary filing for bankruptcy by the debtor’s creditors remains an option, but it is infrequently used and typically requires the assent of at least three creditors. Involuntary bankruptcies “account for just 0.01 percent of the non-business bankruptcy cases.” Richard M. Hynes & Steven D. Walt, Revitalizing Involuntary Bankruptcy, 105 IOWA L. REV. 1127, 1151 (2020). As of 2005 a debtor is also required to receive credit counseling prior to filing for Chapter 7 Bankruptcy. Bankruptcy Abuse Prevention and Consumer Protection Act, 119 Stat. 23, Pub. L. 109-8 (2005).
may object and the claim will be adjudicated judicially.\footnote{50}

The commencement of a bankruptcy case leads to the creation of a bankruptcy estate consisting of the debtor’s assets and liabilities, and a court-approved trustee for the estate is appointed. Although the trustee stands in the place of the debtor, he or she serves as the representative of the creditors of the estate.\footnote{51} Under modern bankruptcy law “[t]here is no question that Chapter 7 trustees have a fiduciary duty to . . . creditors.”\footnote{52}

The trustee supervises the case and ensures that creditors’ interests are represented, and all creditors who were listed by the debtor are notified so they can participate in the bankruptcy case directly if they so choose. The trustee and any creditors may examine the debtor through a hearing held under bankruptcy Rule 2004, whose scope is so broad as to frequently be called a “fishing expedition.”\footnote{53} Assuming that no complications arise, the trustee then distributes the debtor’s property, save for the property the debtor is entitled to “exempt” from the bankruptcy proceeding, and issues a report on the distributions. Of course, complications may arise, varying from the court finding the debtor was dishonest at any point, to the rise of a cause of action either against the debtor or on behalf of the debtor against a creditor. The “honest but unfortunate” debtor then receives a discharge of all remaining obligations from before the filing of the bankruptcy petition, as well as a “fresh start” in terms of their ability to recommence a personal or business financial life. If the debtor is found to be less than honest, the discharge can be revoked and other remedies, including criminal remedies, are available. Debts which were not scheduled are not discharged. This approach to bankruptcy law in America was among the most liberal in the world in 1841,\footnote{54} and Edgar Allan Poe was one of the first to reap the benefits of this American jubilee.\footnote{55}

\section*{II. Debt and Legal Identity as Gothic Structures in Poe’s Writings}

Born in 1809 in Boston to actor parents, Poe was soon orphaned and taken in by the Scottish tobacco merchant John Allan of Richmond.\footnote{56} While Allan provided him with a good secondary education, Poe subsequently left the

\footnotesize{\begin{itemize}
\item \footnotesize{\textit{E.g.}, Chapter 7 Bankruptcy Basics, U.S. COURTS, https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/chapter-7-bankruptcy-basics/ (last visited Apr. 18, 2023).}
\item \footnotesize{3 COLLIER ON BANKRUPTCY P 323.02 (16th 2022).}
\item \footnotesize{In re McCombs, 436 B.R. 421, 450 (Bankr. S.D. Tex. 2010).}
\item \footnotesize{Bankruptcy Rule 2004 Examination, in BANKRUPTCY LITIGATION MANUAL § 4.04 (Michael L. Cook ed., 2022).}
\item \footnotesize{Iain Ramsay, U.S. Exceptionalism, Historical Institutionalism, and the Comparative Study of Consumer Bankruptcy Law, 87 TEMP. L. REV. 947, 947 (2015).}
\item \footnotesize{James Monroe Olinstead, Bankruptcy: A Commercial Regulation, 15 HARV. L. REV. 829, 843 (1902) (describing the 1898 Act as a “jubilee”).}
\item \footnotesize{Galloway, Introduction, in USHER, supra note 1, xxvi.}
\end{itemize}}
University of Virginia for lack of money and failed as a cadet at West Point. His subsequent decision to become a poet ended his relationship with Allan.

He spent much of his writing career working for various literary journals and periodicals, moving—in increasingly dire financial straits—between Baltimore, New York City, and Philadelphia, where he would ultimately file for bankruptcy in 1842. His literary work during this time, up until his death in 1849, is widely regarded as the most influential of the early American Gothic genre of fiction.

Originating in eighteenth-century Europe, the Gothic is a genre of melodramatic, usually supernatural horror typified by such famous works as Mary Shelley’s *Frankenstein* (1818), Matthew Lewis’s *The Monk* (1796), Ann Radcliffe’s *Mysteries of Udolpho* (1794), and Bram Stoker’s *Dracula* (1897). Due, perhaps, to Gothic writers’ frequent use of the past to intrude upon the present, literary critics have noted that Gothic texts frequently feature “a closed-off region within an outer world.” As Elizabeth MacAndrew notes, “Narrators and characters move from one closed world to another, or from the open, everyday world into a closed one,” through a number of devices such as the temporal distancing of a story (as in Horace Walpole’s *The Castle of Otranto* (1764)), the use of fantasy conventions (as in William Beckford’s *Vathek* (1782)) or the use of a “tale within a tale.” Many Gothic texts, typified by Lewis’s *The Monk*, narrow this enclosure further into “a recurrent theme of imprisonment—in cloister, castle, or dungeon,” which indicates “again and again that goodness is locked up inside evil, that innocence is seduced, perverted but that somehow it might not have been.”

This Part will explore the ways in which legal procedure, particularly relating to debt, functions in Poe’s work similarly to these temporal and spatial structures in European Gothic texts, to close off parts of the world to the narrative subject. First, it will discuss how law impacted Poe’s life and thought. Then, it will argue that the relationship between debt, corruption, and individual helplessness against legally-imposed identity became constitutive elements of the Gothic structure of his literary work (and, therefore, foundational to the American Gothic genre as a whole).

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57. *Id.* at 27-29.
58. *Id.* at 31.
59. *Id.* at 31-33.
60. While Charles Brockden Brown is generally credited as the first American Gothic writer, for the novels *Wieland* (1798) and *Ormond* (1799), Poe’s work has been amongst the most widely-read literature in the world. *See Galloway, Introduction, in USHER, supra* note 1, xlvi.
62. *Id.* at 139.
63. *Id.*
A. Poe and the Law

Even long before his bankruptcy, Poe’s life was shaped in many ways by the law generally and legal status specifically. Indeed, his father had abandoned legal studies before becoming an actor. More importantly, Poe’s famously doomed marriage to his cousin Virginia Clemm—whose traumatic, episodic death doubtless influenced his creation of numerous dying, dead, and partially dead heroines—started with the suppression of corrupt legal status. Poe’s friend Thomas Cleland added an affidavit to their marriage bond attesting that Virginia was “of the full age of twenty-one years,” though she was actually only thirteen. Most important to Poe’s potential interest in the relationship between debt and legal naming, however, was his relationship with his foster father John Allan, who refused legally to adopt Poe, possibly to avoid the inheritance consequences for a legal heir of his own. Poe’s lack of a legal “name” that could entitle him to estate quickly contributed to debt in his personal history: he was compelled to withdraw from the University of Virginia because Allan would not pay enough money to cover his basic university expenses (while becoming, it seems, simultaneously angry that Poe would not attend an additional lecture course that would cost even more money). Poe took up gambling to improve his financial situation but found himself even deeper in debt, which Allan would not pay off.

One area where Poe directly interfaced with the law was in registering his works for copyright. Many of Poe’s stories were originally published in periodicals, and in this era most periodicals were not registered for copyright. However, Poe produced a number of monographs prior to his bankruptcy, and several were registered for copyright in his own name. In particular his Tales of the Grotesque and Arabesque and The Conchologist’s First Book both indicate that they were registered for copyright with the clerk of the U.S. District Court for the Eastern District of Pennsylvania, as was required to secure copyright at the time. Indeed, Poe even tried to sell the copyright for Tales of the Grotesque and Arabesque to the publisher.

64. Galloway, Introduction, in USHER, supra note 1, xxvi.
65. As Poe described it:
Six years ago, a wife, whom I loved as no man ever loved before, ruptured a blood-vessel in singing. Her life was despaired of. I took leave of her forever, and underwent all the agonies of her death. She recovered partially, and I again hoped. At the end of a year, the vessel broke again. I went through precisely the same scene. Again in about a year afterward. Then again-again-again-and even once again, at varying intervals. Id. at xxxvi.
66. Id. at ix.
67. Id. at xxxvii.
68. Id.
69. Id.
70. In addition to the below, his 1829 collection “Al Aaraaf, Tamerlane, and Minor Poems” states “Copy Right Secured” but does not indicate by whom. As the book was printed in Baltimore and Maryland’s copyright records from before 1831 are missing, it is impossible to know who secured the copyright.
but the publisher declined.\textsuperscript{71} Copyright was not a simple matter at the time, but Poe showed sufficient understanding and wherewithal to navigate it. Furthermore, there is evidence that Poe had an intellectual interest in the law itself. In unfavorably comparing American with British literature in a review, he acknowledges offhand that “in Theology, in Medicine, in Law, in Oratory, in the Mechanical Arts, we [Americans] have no competitors whatever.”\textsuperscript{72} As editor of the \textit{Southern Messenger}, Poe solicited an article on American legal pedagogy from attorney Edgar S. Van Winkle, writing that Van Winkle’s brother had alerted him to it and that “it would give us pleasure to insert [it] in the Messenger, if you have devoted it to no better purpose.”\textsuperscript{73} And in a review of Nathaniel Parker Willis’ play \textit{Tortesa the Usurer}, Poe gripes that the illogical legal consequences of some of the characters’ actions surrounding debt undermined the emotional impact of the work.\textsuperscript{74} He also had skeptical views of democracy as a system of law-making in general. In \textit{Mallonta Tauta}, a fanciful tale set in the year 2048, he criticizes the ruler of the “ideal” republic, King Mob:

\begin{quote}
This “mob” . . . is said to have been the most odious of all men who ever encumbered the earth. . . . He died, at length, by dint of his own energies. . . . As for Republicanism, no analogy could be found for it on the face of the earth. . . . [D]emocracy is a very admirable form of government—for dogs.\textsuperscript{75}
\end{quote}

In short, in spite of their apparent remove from the fantastic horrorscapes of his fiction, law and legal process, even distinct from criminality, were demonstrably on Poe’s mind, due not only to his experiences as a debtor, but to some apparent organic interest.

This interest manifests in his fiction itself, in the self-consciously evidentiary framework with which many of his short stories begin. With the rise of the novel form in the eighteenth century, the testimonial mode of fiction had become popular, with novelists using legal tropes to present their characters’ conflicting, subjective accounts of events as if to a legal factfinder (sometimes represented by a fictitious correspondent, sometimes by the reader himself).\textsuperscript{76} Poe very much participated in this convention, and

\begin{footnotesize}
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\item Letter from Lea and Blanchard to Edgar Allan Poe (Nov. 20, 1839), available at https://www.eapoe.org/misc/letters/t3911200.htm/.
\item Poe, \textit{The Drake-Halleck Review} [1836], in \textit{Usher}, supra note 1, at 393.
\item Letter from Edgar Allan Poe to Edgar van Winkle (Nov. 12, 1836), available at https://www.eapoe.org/works/letters/p3611120.htm/.
\item Poe, \textit{The American Drama} [1846], in \textit{Usher}, supra note 1, at 460-61 (“Tortesa, we say, gives to Isabella the lands forfeited by Falcone; but Tortesa was surely not very generous in giving what, clearly, was not his own to give. Falcone had \textit{not forfeited} the deed, which had been restored to him by the usurer, and which was then in his (Falcone’s) possession.”).
\item Galloway, \textit{Introduction}, in \textit{Usher}, supra note 1, xix.
\item See generally LISA RODENSKY, \textbf{THE CRIME IN MIND: CRIMINAL RESPONSIBILITY AND THE VICTORIAN NOVEL} (2003); MARIA RIPPO, \textbf{JUDGMENT AND JUSTIFICATION IN THE NINETEENTH-CENTURY NOVEL OF ADULTERY} (2002); JAN-MELISA SCHRAMM, \textbf{TESTIMONY AND ADVOCACY IN VICTORIAN LAW, LITERATURE, AND THEOLOGY} 2-4 (2000); Judy Cornett, \textit{The Treachery of Perception}:
\end{enumerate}
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opens “Manuscript Found in a Bottle” with a particular evidentiary claim, which he attributes to the French opera Atys: “He who has but a moment to live / No longer has anything to dissimulate.” This is a restatement of the long-standing “dying declaration” exception to the rule against hearsay in evidence law.

Many other Poe narrators likewise begin their tales with assertions of testimonial competency, often against anticipated accusations of insanity. Poe employs this testimonial motif in “The Tell-Tale Heart,” “The Black Cat,” and “Eleonora,” among others. However, when Poe addresses legal epistemology most directly, in “The Murders in the Rue Morgue,” he highlights its insufficiency. His amateur detective Dupin, who eventually deduces that the murderer is a chimpanzee, defends his view of the physical strength required to commit the crimes, observing

You will say, no doubt, using the language of the law, that “to make out my case” I should rather undervalue, than insist upon a full estimation of the activity required in this matter. This may be the practice in law, but it is not the usage of reason. My ultimate object is only the truth.

From these moments in his works, it is clear Poe was fully aware of systems of legal proof as a relevant backdrop to the truth claims of his own narrators and characters.

B. Wealth, Debt, and Imagination

Beyond a general interest in the law, Poe’s stories and critical writings reveal his specific preoccupation with the relationship between wealth, debt, and the potential for creative production: precisely the trilemma of trade-offs that led to his own bankruptcy. At the level of general philosophy Poe was interested in the dualism between art and materialism—in, as Galloway puts it, “the distinction between man’s power and responsibility as a rational creature and those of the intuitive, imaginative being.” Poe’s creation of Dupin as the consummate detective in “The Murders in the Rue Morgue” and “The Purloined Letter” is a partial rejection not only of legal but of purely material reasoning; Dupin is “a poet who brings to commonplace reality the discriminating eye of the artist, but who weighs his evidence as a logician and is able to extrapolate from the raw materials of the real world.
the *ideal* solution."\(^{82}\) Poe’s relationship with money and art reflects a bit of this philosophical struggle between the real and the ideal.

As a magazine editor Poe was commercially successful but saw none of the financial benefit personally. While he served as editor of the *Southern Literary Messenger*, its circulation increased from 500 to 3,500 while his salary barely increased beyond ten dollars a week.\(^{83}\) And he was rarely paid for his own writing because American publishers didn’t want to pay copyright when they could pirate works printed in England.\(^{84}\) Poe commented on the incompatibility of literary merit with financial solvency on a number of occasions. In a review of a book of short stories called *Georgia Scenes* he observed, “Thanks to the long-indulged literary supineness of the South, her presses are not as apt in putting forth a *saleable* book as her sons are in concocting a wise one.”\(^{85}\) Of his own craft he proudly remarked in a letter to F.W. Thomas, “I shall be a *litterateur*, at least, all my life; nor would I abandon the hopes which still lead me on for all the gold in California.”\(^{86}\) In a similar vein, he refers to poetic capacity as a substitute for gold in a letter to “B___” (presumed to be Edward Bulwer-Lytton),\(^{87}\) noting, “Delicacy is the poet’s own kingdom—his *El Dorado.*”\(^{88}\) He would return to the image of the city of material gold, rendered as a bad place, in the poem “Eldorado,” in which the wealth-seeking knight is told he must ride “Down the Valley of the Shadow” if he seeks for Eldorado.\(^{89}\) Poetic inspiration, he regularly suggests, is better than material gold.

Some of Poe’s narrators likewise confess the limitations to their imaginative or moral capacity resulting from wealth. In “Manuscript Found in a Bottle” the narrator uses lack of imagination as a proof of testimonial veracity, noting that “[h]ereditary wealth afforded me an education of no common order” resulting in “a deficiency of imagination . . . imputed to me as a crime” but that on that basis he was unlikely to be “led away from the severe precincts of truth” when “the reveries of fancy have been a dead letter and a nullity.”\(^{90}\) Here not only does wealth—specifically hereditary wealth, precisely what Poe himself was denied—limit the imagination, but it does so by transfiguring it into a meaningless legal document, a “dead letter.” In “Ligeia” Poe goes even farther, linking wealth to moral corruption. The narrator states that after his first wife’s death (and prior to her self-

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82. *Id.*
83. *Id.* at 34.
84. *Id.*
89. Poe, *Eldorado* [1849], in USHER, supra note 1, at 95.
90. Poe, *Manuscript Found in a Bottle* [1833], in USHER, supra note 1, at 99.
resurrection through the body of his second wife), “I had no lack of what the world calls wealth” and so purchases an abbey which he decorates in “more than regal magnificence,” consisting mostly of Egyptian tomb furnishings. The narrator then blames his wealth for the fact that he “become[s] a bounden slave in the trammels of opium.” He also notes that the material greed of his second wife’s family forced her into the creepy marriage, asking, “Where were the souls of the haughty family of the bride, when, through thirst of gold, they permitted to pass the threshold of an apartment so bedecked, a maiden and a daughter so beloved?” All of this suggests Poe’s general association of wealth with baseness and evil.

These views, however, contrast somewhat comically with evidence of Poe’s personal interest in physical possessions. While the “Ligeia” narrator’s sarcophagus décor signifies depravity, Poe himself was quite interested in furnishings. He wrote an essay entitled “The Philosophy of Furniture,” commenting on the various aesthetics of the time. Perhaps strangely, given the subject, he returns in that essay to his favored theme of wealth destroying genius, observing, “It is an evil growing out of our republican institutions, that here a man of large purse has usually a very little soul which he keeps in it. . . . As we grow rich, our ideas grow rusty.”

In the United States, according to Poe, it is the system of government itself that creates the wealthy dullard at the expense of the inspired being (who would presumably purchase more tasteful furniture!). Furniture even appears in Poe’s exegesis on poetic composition, in which he breaks down the creation of “The Raven” and makes that famous declaration about the poetic value of a beautiful woman’s death. This is because furniture apparently also falls into the category of poetic beauty: he notes of the poem’s setting that “[t]he room is represented as richly furnished—this in mere pursuance of the ideas I have already explained on the subject of Beauty as the sole true poetical thesis.” The obvious tension between Poe’s apparent contempt for wealth and his elevation of the things wealth can buy exemplifies his relationship to debt.

Alongside his condemnation of wealth, however, Poe’s work reveals a parallel horror of debt and financial ruin. In “The Black Cat,” published the year after his bankruptcy, the narrator brutally murders his wife after having murdered their cat in a fit of rage, and attributes the crime to the loss of wealth after a fire destroyed his home and business. After the fire, he says, “My entire worldly wealth was swallowed up, and I resigned myself thenceforward to despair.” He goes on to cite this loss as the source of his

91. Poe, Ligeia [1838], in Usher, supra note 1, at 118.
92. Id.
93. Poe, A Philosophy of Furniture [1840], in Usher, supra note 1, at 418.
94. Poe, A Philosophy of Composition [1846], in Usher, supra note 1, at 482-86.
95. Id. at 489.
96. Poe, The Black Cat [1843], in Usher, supra note 1, at 323.
descent into violence, despite claiming to do the opposite: “I am above the weakness of seeking to establish a sequence of cause and effect, between the disaster and the atrocity,” he says, “[b]ut I am detailing a chain of facts—and wish not to leave even a possible link imperfect.”97 While recognizing that he cannot establish what the law would consider to be proximate causation—i.e., that financial ruin has actually morally “caused” the violence he wrought—he nonetheless insists on its general relevance to his confession of events.

Three years after his bankruptcy, in “The Raven,” Poe associates the famously inauspicious bird—whose repetition of the word “nevermore” brings the narrator to believe he will never recover from the loss of his dead love—with the concept of debt and ruin.98 The narrator decries the bird as the product of financial loss, speculating that its single vocabulary word “is its only stock and store” and that the bird has been “[c]aught from some unhappy master whom unmerciful Disaster / Followed fast and followed faster till his songs one burden bore.”99 The term “stock and store” refers to the accumulation of available inventory by a merchant which, as we will discuss in Part III, due to Poe’s frequent purchases on store credit, comprised one of the greatest portions of his scheduled debt.100 Essentially, another man’s penury has distilled the bird into a solitary negation. The narrator next describes the bird, once in his possession, as creating a new, terrible sort of debt, exclaiming “thy God hath lent thee—by these angels he hath sent thee.”101

Poe most commonly uses debt, however, as a form of corruption of family name—part of the legal and financial context within which his characters seek to shrive themselves of fixed identity. In “The Gold-Bug” the narrator describes his friend, the treasure hunter Mr. William Legrand, as “of an ancient Huguenot family” who “had once been wealthy,” but relates that after “a series of misfortunes had reduced him to want . . . [t]o avoid the mortification . . . he left New Orleans, the city of his forefathers” to come to South Carolina.102 Similarly, the poet-detective Dupin is a “young gentleman” of “an excellent—indeed of an illustrious family,” who “by a variety of untoward events, had been reduced to such poverty that the energy of his character succumbed beneath it, and he ceased to bestir himself in the world.”103 Suggesting Poe’s own potentially tolerant creditors, the narrator notes that “[b]y courtesy of [Dupin’s] creditors, there still remained in his possession a small remnant of his patrimony; and, upon

97. Id.
98. Poe, The Raven [1845], in USHER, supra note 1, at 79.
99. Id.
100. See Figure 1, infra.
101. Poe, The Raven [1845], in USHER, supra note 1, at 79.
103. Poe, The Murders in the Rue Morgue [1841], in USHER, supra note 1, at 192.
the income arising from this, he managed . . . to procure the necessities of life.”\textsuperscript{104} Again, debt threatens not only financial wellbeing but patrimony—the inherited material identity that Poe himself was denied. Once the “Rue Morgue” narrator takes up residence with Dupin his external life largely collapses into a narrower interiority—the narrator notes “we existed within ourselves alone.”\textsuperscript{105} It is debt that drives the inward motion, so common to Poe’s work, of this particular protagonist.

C. Patrimony and Legal Naming

If Poe was interested in the potential corruption of family name by an individual’s debt, his letters and fiction also reveal a preoccupation with fixed legal identity and the existence of material estate. In a Letter to B\textsuperscript{6} he observes that “[i]t is with literature as with law or empire—an established name is an estate in tenure or a throne in possession.”\textsuperscript{106} For Poe it is from name that property—be it real estate or poetic salary—arises. Indeed, the protagonist of “The Man that was Used Up,” General John A.B.C. Smith, is literally only a name. The narrator of that tale hears endless vague praises of Smith’s comically inflated reputation, only to fail repeatedly upon trying to learn more details about what made him so highly regarded.\textsuperscript{107} When the narrator finally calls upon Smith he learns that he is only a pile of clothing and false limbs and organs that his manservant assembles each morning.\textsuperscript{108} Smith retains potency despite being reduced to a name and a collection of physical possessions, with no corporeal existence.

But Poe also repeatedly suggests that fixed legal identity is dangerous and even terrifying when it relates to inherited property. The narrator in “Ligeia” describes meeting his first wife in this manner:

I believe that I met her first and most frequently in some large, old, decaying city near the Rhine. Of her family—I have surely heard her speak. That it is of a remotely ancient date cannot be doubted . . . a recollection flashes upon me that I have never known the paternal name of her.\textsuperscript{109}

This coupling of ancient ancestral wealth (which the narrator himself inherits, to ill effect) with uncertain legal identity becomes more sinister once Ligeia resurrects herself from the body of his second wife Rowena, who we assume has been killed to achieve this end. Ligeia’s legal identity “cannot be doubted” as anything other than well-established and prosperous, yet simultaneously decaying and easily enough eluded to allow

\textsuperscript{104} Id.
\textsuperscript{105} Id. at 193.
\textsuperscript{106} Poe, Letter to B\textsuperscript{6} [1836], in USHER, supra note 1, at 379-80.
\textsuperscript{107} Poe, The Man that was Used Up [1839], in USHER, supra note 1, at 128-34.
\textsuperscript{108} Id. at 135-37.
\textsuperscript{109} Poe, Ligeia [1838], in USHER, supra note 1, at 110.
her to slip into the physical body of another woman.

Poe depicts the link between name, estate, and corruption most famously in “The Fall of the House of Usher,” which is frequently read as a tale of incest between the narrator’s friend Rodrick Usher and his sister, whose premature entombment preludes the collapse of the House of Usher—both the family and the physical structure. According to the narrator, the Usher family “had put forth, at no period, any enduring branch” but rather “the entire family lay in the direct line of descent,” a statement read by many critics to imply intermarriage between siblings, particularly in light of Rodrick Usher suffering from an illness described as “a constitutional and a family evil, and one for which he despaired to find a remedy.”

Poe’s narrator speculates at length about the relationship between the physical, inherited home and the perverse nature of its owners:

It was this deficiency, I considered, while running over in thought the perfect keeping of the character of the premises with the accredited character of the people, and while speculating upon the possible influence which the one, in the long lapse of centuries, might have exercised upon the other—it was this deficiency, perhaps, of collateral issue, and the consequent undeviating transmission, from sire to son, of the patrimony with the name, which had, at length, so identified the two as to merge the original title of the estate in the quaint and equivocal appellation of the “House of Usher”—an appellation which seemed to include, in the minds of the peasantry who used it, both the family and the family mansion.

There is a toxic stasis, both to the property and to the family, and the relentless legal inheritance of the one by the other suggests the process of “transmission” of a disease via the operation of estate law. The ailing Rodrick has superstitions about:

an influence which some peculiarities in the mere form and substance of his family mansion had, by dint of long sufferance... obtained over his spirit—an effect which the physique of the gray walls and turrets, and of the dim tarn into which they all looked down, had, at length, brought about upon the morale of his existence.

The narrator concludes that “[t]he result was discoverable... in that silent, yet importunate and terrible influence which for centuries had

\[110\] See, e.g., John Marsh, The Psycho-Sexual Reading of The Fall of the House of Usher, 5 POE STUD. 8, 8 (1972); Alan Tate, Our Cousin, Mr. Poe, in POE: A COLLECTION OF CRITICAL ESSAYS 42 (Robert Regan ed., 1967); D.H. LAWRENCE, STUDIES IN CLASSIC AMERICAN LITERATURE 114-15 (1923).

\[111\] Poe, The Fall of the House of Usher [1839], in Usher, supra note 1, at 157.

\[112\] Id. at 140.

\[113\] Id. at 143.

\[114\] Id. at 140.

\[115\] Id. at 144.
moulded the destinies of his family.” While the story provides much fodder for scholarly discussion around Poe’s use of physical place to suggest familial corruption and sexual degeneration, the legal mechanism of patrimony is equally important to the resulting degeneration. Whereas Poe’s own lack of either legally recognized father or patrimonial inheritance set him off, personally, on a path toward bankruptcy, in “The Fall of the House of Usher” he depicts the alternative arrangement as equally grotesque.

Of all of Poe’s tales, however, none more clearly illustrates the relationship between debt, degeneration, and fixed legal identity as “William Wilson,” published the year of the 1839 panic and thus during the campaign debates over a federal bankruptcy statute. This tale employs the well-known literary motif of the doppelgänger, in which the protagonist’s encounter with his own double produces an uncanny and sinister effect on the reader. Poe’s evil narrator William Wilson—who is dogged throughout his life by the morally upstanding double of himself—opens his biography by announcing that the reality of his true legal name is too horrible even to print:

Let me call myself, for the present, William Wilson. The fair page now lying before me need not be sullied with my real appellation. This has been already too much an object for the scorn—for the horror—for the detestation of my race. To the uttermost regions of the globe have not the indignant winds bruited its unparalleled infamy?

From the first page, then, Poe suggests that the topic of the story is legal identity—the very title “William Wilson” makes contested identity a central problem. The real identity, the narrator’s true name, has been “bruited” about—in the legal sense, determined by rumor of the sort sufficient to constitute legally relevant reputation evidence of character. The plot of the story is one false “William Wilson” pursuing the other, and the reader pursuing both of them, with Poe treating true legal identity as a horror kept just out of sight.

As with many of Poe’s other characters, part of Wilson’s vileness is the product of patrimony; he states “I am the descendant of a race whose imaginative and easily excitable temperament has at all times rendered them

116. Id. at 149.
117. Poe, William Wilson [1839], in Usher, supra note 1, at 158.
118. See generally ALISON MILBANK, GOD AND THE GOTHIC: RELIGION, ROMANCE AND REALITY IN THE ENGLISH LITERARY TRADITION 151-75 (2018); SIGMUND FREUD, THE UNCANNY [1919] 141-45 (trans. David McClintock, 2003). Some notable examples include Oscar Wilde’s Portrait of Dorian Gray (1890), Fyodor Dostoyevsky’s The Double (1846), and E.T.A. Hoffman’s work, particularly The Devil’s Elixirs (1815) and “Die Doppeltgänger” (1821).
119. Poe, William Wilson [1839], in Usher, supra note 1, at 158.
remarkable; and, in my earliest infancy, I gave evidence of having fully inherited the family character.” Yet he also suggests that his ultimate infamy was not only the product of legal nature but of nurture. He notes that, as a child, “my voice was a household law . . . in all but name, the master of my own actions.” Poe suggests Wilson’s free rein the partial product of legal status stemming from wealth, which enabled him to become, prematurely, a source of legal authority in his own right.

When he first notices the second “William Wilson,” the latter is a fellow schoolboy. Wilson notes that meeting someone with the same name was “little remarkable; for, notwithstanding a noble descent, mine was one of those everyday appellations which seem, by prescriptive right, to have been, time out of mind, the common property of the mob.” This is an interesting moment in the text, in light of Poe’s association of “the mob” elsewhere with a republican form of government. While Wilson, like Usher, seems to have been corrupted by the operation of estate law amongst the nobility, he suggests here that his double is tainted through association with the common law of property generally, conceived as the manifestation of popular will. Either way, the identity of each William Wilson has resulted from some operation of property law.

These various property-related themes appear to converge near Poe’s own experience of bankruptcy in the scenes describing Wilson’s experiences at Oxford. His experience as a college student is rather explicitly the inverse of Poe’s at the University of Virginia: “the uncalculating vanity of my parents furnishing me with an outfit and annual establishment, which would enable me to . . . vie in profuseness of expenditure with the haughtiest heirs of the wealthiest earldoms in Great Britain.” While set up in exactly the opposite financial situation to that afforded Poe by John Allan, Wilson goes on to make even more money by cheating his peers at gambling. After inducing a student he believes to be particularly wealthy to play him at cards, Wilson lulls him into security and then begins to cheat; eventually the other student “had become my debtor to a large amount” and “I had effected his total ruin.” While we have no evidence suggesting Poe believed himself to have been cheated during his college gambling days, it is striking that Wilson’s first manifestations of evil conduct relate to “ruining” college peers at cards.

121. Poe, William Wilson [1839], in Usher, supra note 1, at 159.
122. Id.
123. Id. at 162-63.
125. Raoul Charles Van Caenegem, Judges, Legislators and Professors: Chapters in European Legal History 44 (1987) (describing the traditional meaning of the common law as the law common to the people of England, controlled by the royal courts).
126. Poe, William Wilson [1839], in Usher, supra note 1, at 171.
127. Id. at 172.
128. Id. at 173.
Wilson’s last Oxford card game is also the occasion on which the other William Wilson manifests in his adult life for the first time, exposing his misconduct to the other card players who then drive Wilson out of the University forever. The path to evil for this artificially legally-constructed, bifurcated narrator begins with driving people into debt and presumed bankruptcy. After the good Wilson pursues the bad one around Europe for some time, attempting to interfere with the latter’s various plots, they eventually face off in a duel in which the legal status of their shared identity is resolved. The evil narrator impales the good Wilson, who dies with the following words: “You have conquered, and I yield. Yet, henceforward art thou also dead—dead to the World, to Heaven, and to Hope! In me didst thou exist—and, in my death, see by this image, which is thine own, how utterly thou has murdered thyself.” Wilson ends, then, in corporeal existence but without fixed identity—as a legal matter he has been “murdered” and the result is that society will view him henceforth as dead (the inverse as Captain John A.B.C. Smith, who is a reputation without a body). Wilson’s denaming suggests Poe’s own anxiety over his own broken connections to both his dead parents and his foster father Allan, whose name he bears despite the severance of their familial relationship. That Poe’s own debt caused this final severance amplifies the parallel with Wilson.

In sum: while Poe’s work frequently centers around the collapse of identity and the biological inheritance of perversion, it is enlightening to consider the ways in which he attends to the role of legal rules and process at generating and transmitting identity through property. Reading the struggle between the material and the ideal in much of his writing against the biographical realities of his own bankruptcy is reciprocally enlightening. To the extent that his work reveals a terror of the law fixing identity through estate, it is accompanied by a parallel fear of poverty obliterating legal identity. The potential for law, operating on poverty, to fix or destroy both identity and estate is the essence of the bankruptcy process.

III. POE’S BANKRUPTCY

While little in Poe’s Gothic fiction suggests an overt political agenda per se, “The Raven” first appeared in the American Whig Review, and, indeed, Poe was aligned with the pro-bankruptcy Whig Party both before

129. Id. at 178.
130. As mentioned supra note 37, “ABC” is modern terminology for the state-law insolvency proceeding more properly called an “Assignment for the Benefit of Creditors.” The proper term was widely in use well before Poe was writing. See e.g., Smith v. Tinker, 2 Day 236, 242 (Conn. 1806). There’s no printed evidence of “ABC” being used as slang in this way, but it’s a tantalizing possibility.
and during the 1840 presidential campaign. He would declare that his “political principles have always been as nearly as may be” with the Whigs and the Harrison Administration, although it is difficult to disentangle his personal interests from principle in this support. Poe had hoped for financial salvation with an appointment in the Harrison (and then Tyler) Administration, but it seems possible the bankruptcy discharge promised by the Whigs was likewise appealing if an appointment did not occur. The appointment did not occur, and with his finances worsening in June of 1842, Poe wrote that “[m]y only hope of relief is the ‘Bankrupt Act,’” as soon as he could afford to file, and remarked that if he had resolved to file for bankruptcy earlier, he “might now have been doing well—but the struggle to keep up has, at length, entirely ruined me.” Poe was going, unaware, into a corrupt and flawed bankruptcy process, and the fact that he needed to save up to afford the filing is the first suggestion of the practical complexion of bankruptcy law under the revolutionary but defective 1841 Bankruptcy Act.

A. The Poet Files for Relief

Edgar Allan Poe finally filed for bankruptcy on December 19, 1842, represented by attorney John Taylor Sargent Sullivan. A published decision from earlier in 1843 shows that Sullivan was handling other bankruptcy cases at the time, and would have presumably offered competent representation. However, Poe likely knew Sullivan more as a songwriter and bon vivant than as an attorney. Sullivan was publishing songs and poems in Casket magazine and its successor Graham’s Lady’s and Gentleman’s Magazine around the same time Poe was publishing in

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133. BALLEISEN, supra note 19, at 213. In the 1840 election, the Democratic-Republicans blamed the votes of debtors for losing the election. WARREN, supra note 21, at 69.

134. Letter from Edgar Allan Poe to James Herron (early June 1842), available at https://www.eapoe.org/works/letters/p4206000.htm/. The fee for entry of a bankruptcy petition was only 50 cents—not an onerous amount even then, but the fees and other expenses added up quickly. RULES AND FORMS IN BANKRUPTCY, supra note 43, at 28.

135. Not everyone is as critical of the 1841 Act. In particular, Charles Warren in his history of bankruptcy law in America notes that the small recoveries to creditors had much to do with debtors having already gone through state court insolvency, or chosen to make voluntary compositions of their debts working with creditors instead of filing for bankruptcy. WARREN, supra note 21, at 81. However, it seems clear looking at the players in Poe’s case that more was going on, leading to low recoveries by creditors.


137. Sullivan v. Hieskill, 23 F. Cas. 349 (E.D. Pa. 1843). In that case Sullivan was assignee under federal bankruptcy law of Lewis, while Hieskill was assignee under state bankruptcy law, which Lewis had applied for and received a discharge a year earlier. Sullivan argued that the earlier state insolvency assignment was null and void because the Pennsylvania insolvency law was effectively suspended by the enactment of the 1841 Federal Act, but the district court disagreed and found that the assignment for the benefit of creditors under state law was valid, and that Sullivan could not recover. Westlaw currently sees zero citations for this (as of the writing) 179-year-old case.
that journal, although he did not seem to publish anything during Poe’s
tenure as editor of *Graham’s* from February of 1841 to April of 1842.\(^{138}\) However, Sullivan was best known for being “pre-eminently the admiration and charm of every festive scene, that few persons were aware how accomplished he was in letters, how laborious in the discharge of his professional concerns.”\(^{139}\) In recollecting him decades later, one acquaintance suggested something unsettling about Sullivan, calling him “singularly, perhaps dangerously, gifted.”\(^{140}\) In discussing “good conversationists,” as opposed to merely “respectable talkers,” Poe wrote he only knew five or six, and Sullivan was one of them.\(^{141}\) Poe was thus fortunate—he already knew a competent bankruptcy lawyer, perhaps without even fully realizing it at first.

According to one study, only 11% of debtors chose to represent themselves under the 1841 Act, and they presumably comprised the most desperate and unsophisticated.\(^{142}\) Although Poe was in dire straits by this point, he nonetheless understood the game to be played under this new bankruptcy law by hiring an attorney. The fact that, with attorneys’ fees added, bankruptcy costs and fees were greater than two months’ wages for a skilled worker was ultimately less important than getting the bankruptcy discharge. Given that they moved in the same circles, it seems likely that Poe knew this from Sullivan well before he filed the bankruptcy case.\(^{143}\)

At the time, there were no official forms provided freely for the filing of bankruptcy petitions, so Sullivan filed Poe’s bankruptcy petition on a form provided by John C. Clark, a printer of commercial and law blank forms.\(^{144}\) The petition would have been filed with Francis Hopkinson, the clerk of the

\(^{138}\) Sullivan only published one piece in *Graham’s* magazine after this, in August of 1842, and thereafter became a regular contributor to *Godey’s Lady Book*, where he published songs until his untimely death at 35 in 1848. *Obituary*, AM. Q. REG. & MAG. 250 (Mar. 1849). One of his friends remembered: “He was a superior linguist, a fine musician, an inimitable story teller and excellent conversationalist. The writer knew him well and can say with truth that he has never encountered a man with such varied talents.” [WILLIAM T. DAVIS, BENCH AND BAR OF THE COMMONWEALTH OF MASSACHUSETTS 286 (1895)].

Indeed, he clearly was something of a unique person—the politician, lawyer, and scholar John O. Sargent, writing over three decades after his death and far longer since they were classmates at Harvard, commented that he was “in the full possession of those wonderful social accomplishments and powers in which no American gentleman of this century has rivalled him.” John Osborne Sargent, *Some Interesting Reminiscences of the Past Fifty Years*, 3 HARV. REG. 324, 324 (1881).

\(^{139}\) *Obituary*, supra note 138.

\(^{140}\) JOHN W. FORNEY, ANECDOTES OF PUBLIC MEN 71 (1873).


\(^{142}\) BALLEISEN, supra note 19, at 268 n.15.

\(^{143}\) *Id.*

\(^{144}\) AMERICAN DICTIONARY OF PRINTING AND BOOKMAKING 99 (Wesley Washington Pasko ed., 1894). Clark was in business in Philadelphia for over 80 years as a printer, dying at 95 in 1882. *Id*. His company continued in business all the way into the twenty-first century, although it seems to have closed following the 2008 economic downturn. Clark & John C Co Stationers, YELP, https://www.yelp.com/biz/clark-john-c-co-stationers-philadelphia.
U.S. District Court for the Eastern District of Pennsylvania. Hopkinson was from a long line of distinguished lawyers—his father Joseph and his grandfather, also named Francis, had both been judges on the same court of which he was now clerk. Francis Hopkinson then referred the petition to his brother Oliver Hopkinson, who was serving as Commissioner for bankruptcy cases in the city of Philadelphia. The Commissioner would have taken the oath from Poe that the bankruptcy petition was true to his knowledge, along with taking proofs of creditor claims and examining Poe. It was common for well-paying patronage jobs like Hopkinson’s to go to family members of federal judges—so even though the judges themselves did not profit directly, they could profit indirectly from bankruptcy’s bounty through family members.

Just as today, Poe was required to submit schedules of his assets and liabilities. His schedule of creditors, marked as Schedule A to his bankruptcy petition, lists debts of $1,984.50, which is a little less than $70,000 in 2013 dollars. His debts were for a mix of book debts (credit from merchants entered into their record books), (promissory) notes of hand, money lent, and miscellaneous other debts.

145. RULES AND FORMS IN BANKRUPTCY, supra note 43, at 17 (showing that the petition would have been filed with the clerk) & 34 (indicating that Hopkinson held that position).
146. Clerks of the federal were frequently nepotism appointments at this time, and their compensation was derived entirely from fees collected. I. SCOTT MESSINGER, ORDER IN THE COURTS: A HISTORY OF THE FEDERAL COURT CLERK'S OFFICE 15 (2002).
147. Petition, In re Poe, supra note 136. We can’t be entirely sure it was Oliver Hopkinson, since he only used the name “O. Hopkinson” in legal documents, and have been unable to find a reference to his service as Commissioner in Bankruptcy, but he does seem to be the only attorney with that name in Philadelphia at the time. Oliver Hopkinson, born July 24, 1812, died March 10, 1905, in 11 REPORT OF THE ANNUAL MEETING OF THE PENNSYLVANIA BAR ASSOCIATION 89 (1905).
148. BALLEISEN, supra note 19, at 138.
149. Id. at 139.
150. Petition, In re Poe, supra note 136. See infra Appendix for a reproduction of Schedule A.
Some of these other debts included medical bills of $100, $90 for a piano and music lessons, and rent. The largest debt was to the tailor J.W. Albright for $169.10 and the tailor Charles Watson & Sons was owed an additional $105.50, for a total of almost $10,000 in today’s funds. (In this disproportionate expenditure on aesthetic consumer goods, it is difficult not to discern Poe’s association of tasteful furniture with the soul in “The Philosophy of Furniture,” discussed in Section II.B.) A number of people who remain known today were also among his creditors—the poet William Cullen Bryant lent him the not inconsiderable sum of $52, worth about $2,000 today. Likewise Nicholas Biddle, who had been the President of the Second Bank of the United States until his removal by President Jackson only six years before, had advanced Poe $20. Louis Godey, the publisher of Godey’s Lady Book, had likewise lent Poe $20, the equivalent of about $700 today.

On Schedule B, which was supposed to list Poe’s assets from which creditors could be paid, Poe attested that he “is possessed of no Property, real, personal, or mixed, beyond his wearing apparel and a few printed sheets, of no use to any one else, and of no value to anyone.” This language was not mere boilerplate, and although one assumes Sullivan

151. Poe wrote about Bryant (see Edgar Allan Poe, William Cullen Bryant, in 3 THE WORKS OF THE LATE EDGAR ALLAN POE 178 (Rufus Wilmot Griswold ed., 1850)), and there have been comparisons of Poe’s work and “Thanatopsis” (see, e.g., Mónica Peláez, The Sentimental Poe, 8 EDGAR ALLAN POE REV. 65 (2007)). It thus seems significant that Poe defaulted on a fairly sizable debt to Bryant.

152. Petition, In re Poe, supra note 136; see also infra Appendix.

153. Petition, In re Poe, supra note 136. If Poe had paid any money to creditors his assignee would have been required to file a report of all payments, but no report was filed. RULES AND FORMS IN BANKRUPTCY, supra note 43, at 26.
wrote it, Poe may have had a hand in the drafting as well. While “printed sheets” could have referred to any published material he had in his possession, the likelihood that at least some of that material included his own published work suggests his estimation of its uselessness and valuelessness to be somewhat self-condemnatory. The language was equally full of legal significance. As an initial matter, Poe was making the statement that he owned no property, and he would then make this his oath to the Commissioner. Further, by stating what he had was of no value to anyone but himself, Poe was stating he held at best what modern courts call an expectancy—“potential rights that are not certain to arise and that do not become enforceable, if at all, until after bankruptcy.”

As such, these assets would not be subject to the bankruptcy and would remain his.

Unmentioned is that Poe owned numerous federal copyrights which would last for decades. Even if not renewed, copyrights under the 1831 Copyright Act lasted twenty-eight years and could be renewed for a further fourteen. Under current law there is “little question that a debtor’s . . . copyrights . . . are property” of the bankruptcy estate for the Trustee to sell or otherwise dispose of for the benefit of creditors. There is not much authority for the point under the 1841 Act, but no specific reason to think that copyrights were not considered property under the 1841 Act, in which case they presumably constituted Poe’s main asset.

Poe was ordered on the date of his bankruptcy filing (December 19, 1842) to publish notice of his bankruptcy in at least three newspapers printed in the Eastern District of Pennsylvania at least twenty days prior to the court hearing on his petition, which was scheduled for January 13, 1843, meaning he needed to file such a notice promptly. The publication requirement is another area where there was suddenly money to be made from the new Act, with newspapers in large cities making tens of thousands of dollars from these notices.

Poe must have been successful in complying with the publication order, as Commissioner Hopkinson declared Poe bankrupt on January 13, 1843, meaning his petition was accepted. On that same date, Hopkinson named

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154. In re Brown, 601 B.R. 514, 517 (Bankr. C.D. Ill. 2019). Other commentators have similarly discussed that a social media account, for instance, constitutes an expectancy because they are “a very valuable legal right that is of no value to anyone but the debtor.” Smita Gautam, #Bankruptcy: Reconsidering ‘Property’ To Determine The Role of Social Media in the Bankruptcy Estate, 31 EMORY BANKR. DEV. J. 127, 131 (2014), quoting Elizabeth Warren & Jay Lawrence Westbrook, The Law of Debtors And Creditors 121 (6th ed. 2009) (the emphasis added by Ms. Gautam of course parallels Poe’s own language).

155. See discussion supra note 70.

156. ERIC E. BENSEN, INTELLECTUAL PROPERTY IN BANKRUPTCY: A COLLIER MONOGRAPH § 2 (2012), Lexis.


158. BALLESEN, supra note 19, at 139.

Poe’s lawyer, J.T.S. Sullivan, to serve as the assignee of Poe’s assets on behalf of his creditors, the rough equivalent of a modern Chapter 7 Trustee. The appointment of Poe’s own lawyer as assignee is no doubt the strangest part of his bankruptcy to a modern attorney, and may have been unethical even then. Also on January 13, 1843, the District Court ordered that Poe publish notice of his bankruptcy twice a week, for ten weeks, in three newspapers printed in the city of Philadelphia, and set the hearing on whether he would be granted a discharge for April 29, 1843.

It is not clear which newspapers the three were, but at least one of them was the Pennsylvania (now Philadelphia) Inquirer. The first notice of Poe’s filing for bankruptcy protection was printed there on Thursday, December 22, 1842 along with those of other debtors who had filed on Monday, December 19th. By design or not, the delay of several weeks may have been caused by filing so close to the holidays. Another notice was filed the following Thursday, January 5, 1843. On Monday, January 9; Thursday, February 9; and again on Monday the 13th the Inquirer listed Poe among those who had applied for a discharge of their debts under the new law. The same notices continued to be printed, appearing on March 6 and on April 13, and presumably on every other Monday and Thursday during this ten-week period. In the Inquirer, bankruptcy notices took up half of a large newsprint page, with Poe listed as “late editor” as his only identifying detail.

It is difficult to imagine the toll of public humiliation involved in these constant notices surely being seen, for weeks on end, by essentially everyone Poe knew in Philadelphia. The fact that he himself was paying to be included in these notices was surely insult atop injury. To the extent anyone in Philadelphia had forgotten Poe’s mortification, one of the three local papers would remind them. Indeed, this relentless, public declaration of inequity suggests the recurrent incriminating wailing of the “Black Cat” or beating of the “Tell-Tale Heart,” which plagued the culpable narrators of those two famous confessional stories, both published around this time in 1843.

Doubtless eager to escape bankruptcy as quickly as possible, Poe submitted a petition for a discharge in compliance with the District Court’s order the very day after it was issued (January 14, 1843). It is not clear if

160. Id.
161. Id.
166. Petition for Discharge, In re Poe, Case No. 1304 (Bankr. E.D. Pa., Jan. 14, 1843), Poe
Poe knew that the clock was ticking on the 1841 Act, but he was clearly moving with alacrity. Less than two weeks later, Oliver Hopkinson set February 1 to 4, 1843 as the dates he would take proofs of claim against Poe.167 On January 28, 1843, one Charles Carlor swore to Hopkinson that he served notice on Poe’s creditors that they needed to bring proofs of claim on those dates.168 Of the creditors in Philadelphia, ten were served by leaving notice at their business, five more had notice left at their dwelling, four were served personally, and six were served by mail.169 Also, on January 28, Hopkinson set February 13 to 18 as the dates for out-of-town creditors to prove their claims; all of them were served by mail.170 On February 20, Hopkinson reported that no one had come to prove their claim against Poe, and likewise that the assignee would have no funds to distribute to creditors.171

Meanwhile, on January 26, 1843, J.T.S. Sullivan, acting as assignee, reported that “he has examined the effects of the said Bankrupt as enumerated in his said schedule B that said effects are of no value whatsoever, that the same Bankruptcy has in all things complied with the requisitions of the Law, and of this Honorable Court.”172 This is, at once, an unsurprising and shocking document. Sullivan had presumably created Poe’s schedules, and he was now attesting that he had examined Poe’s effects and confirmed that the schedules were correct. Although there is no evidence of fraud here, the potential for working a fraud on creditors is immediately obvious.

Indeed, the workings of Poe’s case are a microcosm of the problems with the 1841 Act generally. Given this lack of oversight of the bankruptcy process, a “particularly common way to protect assets from creditors was to conceal them.”173 On March 3, 1843, the 1841 Bankruptcy Act was repealed, although currently pending cases were allowed to continue.174 If Poe had waited three more months, he would not have been able to file for bankruptcy. Instead, on April 29, 1843, “Edgar A. Poe [was] duly Discharged as a Bankrupt agreeably to, and by virtue of the” 1841

Bankruptcy File, supra note 157.

167. The order is dated January 26, 1843, and proofs of claim were set to be taken at Hopkinson’s Office, 65 S. 7th St., above Walnut St., Philadelphia. Order, In re Poe (Jan. 26, 1843), Poe Bankruptcy File, supra note 157, at 18.


169. Id.


171. Submission from Clerk, In re Poe (Feb. 20, 1843), Poe Bankruptcy File, supra note 157, at 24.


173. BALLEISEN, supra note 19, at 95 (giving examples of successful concealments under the 1841 Act).

Bankruptcy Act.\textsuperscript{175} A final publication of Poe’s name as a bankrupt occurred the following year, when printers in the state put out a list of all who had taken advantage of the 1841 Bankruptcy Act in Pennsylvania.\textsuperscript{176}

Like bankruptcy cases today, Poe’s case was somewhat front-loaded, with most events of consequence happening in the first month after filing, and the remainder of the bankruptcy consisting of waiting and ensuring creditors had ample time to show up if they chose to do so. The fact that no creditors appeared in Poe’s case is not per se unusual, but it is nonetheless striking that none of these personages—from tailors to doctors to small merchants to great men of the era—thought it worth even appearing.

B. The Ethics of Poe’s Bankruptcy

Edgar Allan Poe’s bankruptcy would not pass ethical muster in the twentieth or twenty-first century. But was it ethical at the time? The law today is fairly clear that the assignee for the benefit of creditors is a fiduciary of both the debtor and creditors,\textsuperscript{177} and an attorney-client relationship with the debtor would seem directly contrary to that role. Several decades after the 1841 Act, a court noted, without citation to authority, that it should be “apparent that [one’s] office as such assignee was wholly incompatible with that of an attorney for the assignor or the creditors.”\textsuperscript{178} Whatever the case, while the Pennsylvania Law Journal declined to find any iniquity in how assignees had been appointed under the 1841 Act, it did suggest that in the next iteration of a bankruptcy law creditors should appoint the assignee.\textsuperscript{179} It would be a few decades, but when a new federal bankruptcy law was enacted in 1867, it provided for exactly that.\textsuperscript{180}

It was unusual for a debtor’s attorney to be the assignee, but one case from the time suggests it was not absolutely incompatible. In 1843, the Pennsylvania Supreme Court held that the assignee in a state-court ABC proceeding from decades earlier could purchase the property they had liquidated as assignee.\textsuperscript{181} In so doing the Court reversed the trial court, which had held that it constituted a breach of fiduciary duty, and the Court made this holding over a lengthy dissent from Justice Rogers. This laxity about self-dealing suggests that allowing a debtor’s attorney to be assignee for creditors may have been considered tolerable, even if the dissent

\begin{itemize}
\item \textsuperscript{175} Discharge, In re Poe (Apr. 29, 1843), \textit{supra} note 157, at 29-30.
\item \textsuperscript{176} BALLEISEN, \textit{supra} note 19, at 149; BANKR. E.D. PA. & W.D. PA., LIST OF APPLICANTS FOR THE BENEFIT OF THE BANKRUPT LAW OF 1840, IN THE EASTERN AND WESTERN DISTRICTS OF PENNSYLVANIA, WITH THE DATES OF APPLICATION, DECREES AND DISCHARGE ALPHABETICALLY ARRANGED 27 (1844).
\item \textsuperscript{177} 6 AM. JUR. 2D Assignments for Benefit of Creditors § 93 n.4 (2022).
\item \textsuperscript{178} Kehoe v. Taylor, 31 Mo. App. 588, 598 (1888).
\item \textsuperscript{179} The Late Bankrupt Law, 3 Pa. L.J. 1, 15-16 (1844).
\item \textsuperscript{180} Bankruptcy Act of 1867, ch. 176, 14 Stat. 517 § 13.
\item \textsuperscript{181} Fisk v. Sarber, 6 Watts & Serg. 18 (Pa. 1843).
\end{itemize}
suggests that even then it would not have been favored. The conflicts of interest seem too obvious to casually brush aside, and such conflicts are expressly prohibited today.182

More generally, creditors like Poe’s, in the Eastern District of Pennsylvania as a whole, got paid almost nothing under the 1841 Act. Following the repeal of the law Congress asked the clerks of the district courts to provide information on the bankruptcy cases they had handled, and the results show that in many courts almost no recovery was made, while in others creditors did substantially better, and there isn’t a clear rhyme or reason as to why. Each district reported total debts and total paid to creditors, and in over a third of Courts which provided this data the recovery was under one percent. The Eastern District of Pennsylvania was one of these, where in 1,783 cases183 enumerating almost $32 million in debts, less than $100,000 was paid out to creditors, for a 0.31% payout. The below chart illustrates how creditors fared across America under the 1841 Act:

![Figure 2: Percentage of Debts Recovered by Creditors by District Under the 1841 Bankruptcy Act, By District184](image)

There is no clear pattern here. In New York City and New Jersey the debts listed were massive—over a hundred million in the Southern District of


183. There were 1,799 applicants, and 16 were rejected. 314 were pending at the time of the report but presumably most were discharged. See Letter from the Secretary of State, in Answer to Resolutions of the House of Representatives, Relative to the Application and Discharge of Persons under the Bankrupt Law, H.R. DOC. NO. 29-223 (1846); Letter from the Secretary of State, Transmitting Statements Showing Proceedings under the Bankrupt Act, H.R. DOC. NO. 29-99 (1847).

184. Id. This chart omits jurisdictions with under 1,000 claims, and also omits Connecticut and the District of Columbia, which did not provide numbers on aggregate payouts.
New York—and the payout to creditors was even more paltry. On the other hand, in the District of Massachusetts, another large jurisdiction, almost half of the $34 million in claims were paid. Given the previously mentioned high fees required under the law, court officials earned almost as much in fees as creditors received in payments.\textsuperscript{185} By contrast, in 2017 court fees and trustee fees equaled about 11\% of funds disbursed to creditors in Chapter 7 cases.\textsuperscript{186} In retrospect the strenuous objections of creditors to this new bankruptcy law are a bit clearer—in many of these jurisdictions creditors received shockingly low returns, especially in comparison to other jurisdictions of similar population and commercial activity. And Poe would have almost certainly known this—if not from general knowledge, his attorney would have advised him of it. Poe’s bankruptcy did not feature major fraud, save perhaps from the omission of his copyrights, and then as now most cases resulted in no recovery for unsecured creditors.\textsuperscript{187} However, the brothers Hopkinson and the raconteur Sullivan were part of a fairly small circle that profited from the law while creditors were largely left emptyhanded, and knowingly participated in an obvious and gross breach of ethics in this case by allowing Sullivan to serve in two directly conflicting roles. This was likely irrelevant to Poe, for whom bankruptcy was an obvious lucky break—one he almost missed—although it did not fix his money problems permanently. As a case study of the 1841 Act, though, the ethical problems of Poe’s case help us understand why the law was so unpopular.

The reaction to the obvious problems of the 1841 Act was quick, beginning with the Act’s repeal after less than two years. Congress then initiated an inquiry into the workings of the 1841 Act, leading to the above statistics being collected.\textsuperscript{188} With other intervening events taking priority, the next federal bankruptcy law would come in 1867. As mentioned, that law gave the creditors the choice of the assignee. However, the law was just as unstable as the 1841 Act, and although it endured for eleven years, it was constantly being amended until finally repealed by large majorities in 1878.\textsuperscript{189} In 1898 a lasting bankruptcy law was finally reached, the result of a compromise between emergent national commercial groups and agrarian and other debtor advocacy groups.\textsuperscript{190} The 1898 Act was eventually replaced

\begin{footnotesize}
\bibitem{185} BALLEISEN, supra note 19, at 138.
\bibitem{186} According to the National Association of Bankruptcy Trustees, bankruptcy trustees collected $2.6 billion dollars and kept about 4.8\% of that as their fees. Court costs are not included in the amount collected by trustees, but with a $335 filing fee in 2017 and 450,000 Chapter 7 cases, that’s about 5.8\% of amounts received by Chapter 7 Trustees. \textit{Role of a Chapter 7 Trustee}, NAT’L ASS’N BANKR.TRS., https://www.nabt.com/page/Role_Trustee/.
\bibitem{187} \textit{Id.} Over nine-tenths of Chapter 7 cases in 2017 had no recovery for creditors.
\bibitem{188} Letter from the Secretary of State, in Answer to Resolutions of the House of Representatives, Relative to the Application and Discharge of Persons under the Bankrupt Law, H.R. DOC. No. 29-223 (1846).
\bibitem{189} SKEEL, supra note 29, at 32.
\bibitem{190} \textit{Id.} at 43.
\end{footnotesize}
by the 1978 Bankruptcy Code, which introduced “mildly prodebtor” reforms but left the structure of consumer liquidation largely intact in Chapter 7 of the Code.\(^{191}\) In fact, what is perhaps most surprising about reading Poe’s bankruptcy some 180 years later is how, beyond a few minor anachronisms and the shocking lack of care for conflicts of interest, it could easily be a modern bankruptcy petition under Chapter 7.

**CONCLUSION**

There is a confessional element to bankruptcy, both in 1842 and today, to which Poe could not have been oblivious. In bankruptcy, the debtor’s financial life is exposed to all—literally made public record—and creditors are encouraged to appear to question them about the anatomy of that life. This process exemplifies the function of legal naming that generates horror in so much of Poe’s work. Yet at the end of the bankruptcy process lies absolution, the particular goal Poe so famously denies most of his protagonists. The court sweeps debts away and the debtor begins their life anew, unburdened by the mistakes of the past, through this uniquely American institution.

And yet, of course, bankruptcy isn’t actually a true fresh start. In Poe’s time, when debts were often personal, bankruptcy inevitably involved betrayal of friends and even family, defaulting on obligations and leaving them in the lurch. The tailors who Poe owed the equivalent of $10,000 today surely could not just shrug at the loss—and presumably they would not be eager to do business with Poe again. This presents a banal form of the very Gothic causation Poe posits in several of his stories, between a narrator’s debt and inevitable violent harm to personal relations, resulting in psychological isolation.

Poe’s name ran in Philadelphia newspapers for months on end—everyone who knew him knew he had sought bankruptcy relief instead of paying his debts. The stain on his name could not be lifted, especially not in Philadelphia. Meanwhile, Poe had been obligated to name every single creditor, knowing they would not receive a penny in the process. Their names on the bankruptcy schedule thus serve primarily as a symbolic memorial of their faith in him, and his breaking it.

As can be said of most debtors in bankruptcy, Poe was both object and subject. He was the object of a shameful, quasi-confessional system designed to process identity and—if not actually to impose namelessness—to enforce legal renaming. Yet he was simultaneously the subject of a process that created agency through the very same renaming, allowing him to slip away from a structure of legal obligation into a new, potentially better identity.

\(^{191}\) *Id.* at 156.
Today, bankruptcy law tries to do things better. The obvious conflicts of interest in Poe’s case would be avoided, and the process does not require the same degree of mortification from the debtor. Better oversight exists, from independent bankruptcy judges to the Department of Justice’s Office of the U.S. Trustee, to vetting of Chapter 7 trustees, and more. And yet, the bankruptcy process introduced in 1841 remains essentially the Chapter 7 process today, and the pervasive system of credit reporting we now have ensures that one’s bankruptcy is not forgotten. It is thus unsurprising that the birth of credit reporting was also in 1841 with the Mercantile Agency, now Dun & Bradstreet.192 As it was for Poe, bankruptcy can be an opportunity at a fresh start for the honest but unfortunate debtor, but that doesn’t mean the slate has been wiped entirely clean.

**APPENDIX – EDGAR ALLAN POE’S CREDITORS**

Schedule A of Poe’s bankruptcy petition contains the names of his creditors, and further documents show how they were served with notice of the bankruptcy and add a few additional creditors. We have reproduced this information below. Local creditors were served by mail “after diligent search.”

<table>
<thead>
<tr>
<th>Names of Creditors</th>
<th>Residence</th>
<th>Nature of Debt</th>
<th>Amount</th>
<th>How Served</th>
</tr>
</thead>
<tbody>
<tr>
<td>J.W. Albright</td>
<td>3rd below Chestnut</td>
<td>Note of hand</td>
<td>$169.10</td>
<td>Mail</td>
</tr>
<tr>
<td>J.V. Cowell</td>
<td>7th and Chestnut St.</td>
<td>Note of hand</td>
<td>$7.50</td>
<td>At Business</td>
</tr>
<tr>
<td>Swaine Abel and Simmons</td>
<td>3rd and Chestnut Sts.</td>
<td>Note of hand</td>
<td>$32.85</td>
<td>At Business</td>
</tr>
<tr>
<td>Benjamin W. Matthias</td>
<td>Vine St.</td>
<td>Note of hand</td>
<td>$20.00</td>
<td>At Dwelling</td>
</tr>
<tr>
<td>Charles Watson &amp; Son</td>
<td>Chestnut below 3rd</td>
<td>Note of hand</td>
<td>$105.50</td>
<td>At Business</td>
</tr>
<tr>
<td>John S. Frederick</td>
<td>4th above Walnut St.</td>
<td>Piano hire</td>
<td>$50.00</td>
<td>At Business</td>
</tr>
<tr>
<td>Dr. William Klapp</td>
<td>2nd Above Christian</td>
<td>Medical Attendance</td>
<td>$50.00</td>
<td>At Dwelling</td>
</tr>
<tr>
<td>Dr. William Brunchle</td>
<td>Arch near 13th</td>
<td>Medical Attendance</td>
<td>$50.00</td>
<td>At Dwelling</td>
</tr>
<tr>
<td>John Gray and Son</td>
<td>2nd and Christian</td>
<td>Book Debt</td>
<td>$40.71</td>
<td>Mail</td>
</tr>
<tr>
<td>Henry Manderfield Jr.</td>
<td>3rd and Christian</td>
<td>Book Debt</td>
<td>$13.88</td>
<td>At Business</td>
</tr>
<tr>
<td>S.M. Horner</td>
<td>2nd and South</td>
<td>Book Debt</td>
<td>$19.58</td>
<td>Personally</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Type of Transaction</th>
<th>Amount</th>
<th>Delivery Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>James E. Caldwell</td>
<td>Chestnut near 5th</td>
<td>Book Debt</td>
<td>$12.00</td>
<td>At Business</td>
</tr>
<tr>
<td>William E. Burton</td>
<td>11th near Vine</td>
<td>Disputed Claim</td>
<td>$100.00</td>
<td>Mail</td>
</tr>
<tr>
<td>Nicholas Biddle</td>
<td>Spruce and 7th</td>
<td>Money Advanced</td>
<td>$20.00</td>
<td>Mail</td>
</tr>
<tr>
<td>Richard Brinkle</td>
<td>Spruce and 7th</td>
<td>Book Debt</td>
<td>$15.00</td>
<td>Mail</td>
</tr>
<tr>
<td>Roberts Walton and Oldershaw</td>
<td>Spruce and 7th</td>
<td>Book Debt</td>
<td>$6.00</td>
<td>At Business</td>
</tr>
<tr>
<td>Ann Hughes</td>
<td>Old 2nd below Christian</td>
<td>Balance of Rent</td>
<td>$5.00</td>
<td>At Dwelling</td>
</tr>
<tr>
<td>Thomas Bills</td>
<td>Old 2nd below Christian</td>
<td>Book Debt</td>
<td>$24.00</td>
<td>Mail</td>
</tr>
<tr>
<td>Hugh Oster</td>
<td>South 2nd near German</td>
<td>Book Debt</td>
<td>$8.00</td>
<td>Personally</td>
</tr>
<tr>
<td>Charles Alexander</td>
<td>Chestnut &amp; Franklin Pl.</td>
<td>Book Debt</td>
<td>$4.00</td>
<td>At Business</td>
</tr>
<tr>
<td>John C. Cox</td>
<td></td>
<td>Money lent</td>
<td>$50.00</td>
<td>Personally</td>
</tr>
<tr>
<td>Col. William Drayton</td>
<td>13 Portico Sq. and Spruce St.</td>
<td>Money lent</td>
<td>$130.00</td>
<td>At Dwelling</td>
</tr>
<tr>
<td>Louis A. Godey</td>
<td>Chestnut Above 3rd</td>
<td>Money lent</td>
<td>$20.00</td>
<td>At Business</td>
</tr>
<tr>
<td>Ezra Holder</td>
<td>Chestnut Above 3rd</td>
<td>Note of hand</td>
<td>$138.50</td>
<td>At Business</td>
</tr>
<tr>
<td>Charles Palmer</td>
<td>Richmond, VA</td>
<td>Note of hand</td>
<td>$135.00</td>
<td>Mail</td>
</tr>
<tr>
<td>E.G. Caruthers</td>
<td>Richmond, VA</td>
<td>Book Debt</td>
<td>$129.38</td>
<td>Mail</td>
</tr>
<tr>
<td>D.W. Franklin</td>
<td>Richmond, VA</td>
<td>Book Debt</td>
<td>$9.00</td>
<td>Mail</td>
</tr>
<tr>
<td>Richard Sanpath</td>
<td>Richmond, VA</td>
<td>Book Debt</td>
<td>$10.00</td>
<td>Mail</td>
</tr>
<tr>
<td>Jaqueline P. Taylor</td>
<td>Richmond, VA</td>
<td>Book Debt</td>
<td>$25.00</td>
<td>Mail</td>
</tr>
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<td>Book debt?</td>
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<tr>
<td>W. Jacobs</td>
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<td>Location</td>
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<tr>
<td>W. Kissaw</td>
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<tr>
<td>Joanna Grant</td>
<td>New York City</td>
<td>Book Debt</td>
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<tr>
<td>Michael Bouvier</td>
<td>2nd St. below Chestnut</td>
<td>1/4 Rent</td>
<td>$27.50</td>
<td>Personally</td>
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