Revisiting Debt and Labor — Bailouts for Homeowners: Can the U.S. Compel Public Service in Exchange for Debt Relief?

MICHAEL H. LEROY
University of Illinois at Urbana-Champaign

The Historical Connection between Debt and Labor

I explore the legality of requiring people to perform public service in exchange for federal aid that reduces their debt. As the U.S. government has bailed out banks, insurance companies, and the auto industry, it has imposed tough terms on companies. Executive pay has been capped, CEOs have been fired, and the government has ordered massive reorganizations. To avoid onerous terms, some banks have repaid their bailout.

The United States has also bailed out homeowners by providing low-interest-rate loans while paying off the borrower's costlier debt (U.S. Department of the Treasury 2009b). A second program modifies mortgages up to $729,750 (U.S. Department of the Treasury 2009a) by writing off debt. The programs aim to help 7 to 9 million Americans. This study focuses on these individuals. They must meet qualification standards—but are not obligated to repay the large personal savings that these programs generate.

While there are compelling reasons to relieve home borrower debt, this government aid raises questions. By benefiting property owners, it favors the more affluent. In contrast, people who receive unemployment checks must seek and accept work. They are not entitled to collect an income subsidy without expending effort. Similarly, welfare programs are now recast as workfare. Aid recipients must work or perform public service to receive benefits.

With this in mind, I ask whether the United States can require home borrowers to provide public service in exchange for debt relief. My inquiry draws loosely from Depression-era programs such as the Civilian Conservation Corps (Salmond 1965) and Works Project Administration (Darby 1976), when the United States engaged destitute citizens in public service projects. But my inquiry relates to a deeper historical relationship between debt relief and labor. Jewish law mandated unconditional debt forgiveness every sabbatical year (Kennedy and Clift 2000). At the other end, Rome ordered the death and carving up of a debtor's body for pro-rata distribution to creditors (Countryman 1983). Henry VIII steered England on a middle path by imprisoning debtors and refusing to forgive their debts (Landry and Mardis 2006).

The criminalization of debt delinquency influenced master and servant law in the American colonies. Here, the English practice of imprisonment for debt evolved to allow debt bondage, known as indentured servitude. Masters recruited impoverished Europeans and Englishmen to bind themselves for five years of labor in exchange for passage money and subsistence (Countryman 1983). An involuntary system also arose by which English convicts were shipped to America under indenture. Broadly speaking, debts to society were repaid by forced labor.

In time, American idealism tempered these coercive practices. The Ordinance of 1787, which created the Northwest Territory, prohibited "involuntary servitude" (*Phoebe* 1828). Influenced by this noble charter, an antebellum court allowed a woman to nullify her contract of servitude to a white man (*The Case of Mary*

Author's address: School of Labor and Employment Relations, 504 E. Armory Avenue, Champaign, IL 61820

Clarke 1812). President Lincoln's Emancipation Proclamation drew directly from the language of the Northwest Ordinance, as did the Thirteenth Amendment.

This history bears upon the five groups of individuals in my study who have been subject to compulsory public service. The first group performed road duty, a practice that I trace to the early 1800s. Able-bodied men were required by state and county governments to work several days each year building roads and bridges, without pay, or face fines and imprisonment. In another practice from the 1800s, lawyers were ordered to represent indigent defendants without pay. Beginning in the 1940s, draft laws were changed to allow conscientious objectors to avoid military service. These men were required, however, to accept full-time employment for two years in charitable organizations. They worked for less pay than their civilian jobs. The 1970s brought two new forms of public service. Some welfare programs required recipients to accept assignment in community projects if they could not find employment. Separately, the United States sought to improve health care in underserved areas by sponsoring a scholarship program to train doctors. However, as a condition for receiving tuition, these physicians were required to accept a job assigned by a federal agency.

In all five work scenarios, federal and state government used coercive sanctions to force individuals to perform a public service. Most cases carried imprisonment and fines. In the case of noncomplying doctors, the United States trebled their debt and added a steep interest rate. Public aid recipients were threatened with termination of benefits or contempt of court for failing to perform community service.

As I explore the legality of requiring public service to write off personal debt, I consider two potential obstacles. Federal law prohibits peonage, a form of involuntary servitude in which a person is coerced to work off a debt (18 U.S.C. § 1581). Also, the Thirteenth Amendment prohibits involuntary servitude, except as a punishment for crime. My study reviews these and other legal grounds for resisting compulsory work. Based on this extensive case law, I conclude that the federal government could require individual borrowers to perform public service in exchange for debt forgiveness.

Road Duty

Road duty originated under a Roman law doctrine called *trinoda necessitas*. All free men were required to participate in any "expedition against the enemy, the construction of arsenals, and the repairing of bridges" (*Harper* 1922:731). As early as 1809 in American law, *trinoda necessitas* meant road duty—the conscription of able-bodied male adults each year to build and maintain local roads (*Overseers* 1810).

Many states required this service, including Kansas (*in re Dassler* 1886), North Carolina (*State* 1906), Illinois (*Sawyer* 1841), Georgia (*Johnston* 1879), Louisiana (*Barrow* 1892), Vermont (*Town of Starksborough* 1841), New York (*Walker* 1847), Alabama (*Whitt* 1909), New Hampshire (*Pickering* 1841), Texas (*Ex Parte Roberts* 1889), Nebraska (*Burlington M.R.R.Co.* 1876), Pennsylvania (*Miller* 1861), Arkansas (*Lowery* 1889), and Wisconsin (*Biss* 1877).

Though not a tax, this requirement was similar to jury or military service that the state could order without pay (*Probst* 1921). Courts rejected arguments that road duty was a form of involuntary servitude (*Dennis* 1894). When individuals failed to comply, they were fined (*Bouton* 1808) or jailed (*State* 1884).

The duty was controversial because it was imposed unequally. Town dwellers were exempt from work outside city limits (*DeTavernier* 1871), but rural residents had countywide duties (*State* 1906). The latter were required to furnish wagons and teams, plus feed. This disparity was lawful (*Galoway* 1918). The law tolerated other inequalities. Slaves could substitute for their owners (*Woolard* 1841). Road duty laws exempted men who performed public functions, such as serving on fire-fighting companies (*Leedy* 1895).

In the early 1900s, states responded to growing criticism by phasing in road taxes (*State* 1905). Road duty was not discontinued before the Supreme Court affirmed the practice in a far-reaching decision. *Butler* (1916) upheld a Florida law that required men to work without pay for six days every year on roads and bridges. J.W. Butler was jailed for 30 days after he ignored this duty and failed to make an alternate arrangement. Upholding the conviction, *Butler* traced the duty to Roman law, which decreed that "with respect to the construction and repairing of ways and bridges no class of men of whatever rank or dignity should be exempted" from conscription. *Butler* also concluded that when Congress enacted the Thirteenth Amendment it did not intend to extinguish public duty.

Butler remains a vital and relevant precedent, even though road duty was abolished long ago. For example, courts rely heavily on this precedent to uphold community service mandates that are graduation requirements for high school students (*Herndon* 1996, *Immediato* 1995, *Steirer* 1993).

Lawyers and Pro Bono Publico

Centuries ago, English courts ordered lawyers to represent indigent criminal defendants without compensation (Holdsworth 1964). Many early American colonial courts adopted the practice (*Carpenter* 1859, *Webb* 1854, *Whicher* 1848), though a few courts ruled that unpaid appointments were unlawful (*Blythe* 1853).

Typical of these early courts, the Illinois Supreme Court declared: "The law confers on licensed attorneys rights and privileges, and with them imposes duties and obligations, which must be reciprocally enjoyed and performed" (*Vise* 1857). Similarly, the Supreme Court of California acknowledged that lawyers "are not considered at liberty to reject, under circumstances of this character, the cause of the defenseless" (*Rowe* 1860). *Nabb* (1864) extended appointment of unpaid counsel to a Kickapoo Indian who was charged with manslaughter.

Passage of the Thirteenth Amendment did not affect the unpaid nature of this duty (*Arkansas County* 1876, *Elam* 1873, *House* 1875, *Johnson* 1884, *Johnston* 1874, *Lamont* 1874, *People* 1920, *Posey & Tompkins* 1873, *Presby* 1892, *Ruckenbrod* 1943, *Washoe Co.* 1879, *Wayne County* 1879).

Against this clear trend, a handful of early American courts presaged a more contemporary approach of requiring some payment to appointed counsel. The Indiana Supreme Court said that lawyers should be treated like any other occupation: "The idea of one calling enjoying peculiar privileges, and therefore being more honorable than any other, is not congenial to our institutions. And that any class should be paid for their particular services in empty honors is an obsolete idea belonging to another age and to a state of society hostile to liberty and equal rights" (*Webb* 1854). Similarly, the Iowa Supreme Court reasoned: "It is not presumable that this humane provision of the law for the protection of the accused, but innocent, poor citizen, was intended by the legislature to be at the expense and in violation of the right of the citizen, whose profession is that of an attorney" (*Hall* 1850).

Nonetheless, *pro bon publico* remained a vital doctrine in the 20th century. Judge Cardozo's scholarly decision set the tone for expanding the duty during the New Deal and the civil rights movement: "Membership in the bar is a privilege burdened with conditions. The appellant was received into that ancient fellowship for something more than private gain" (*People* 1928). As the current era unfolded, most courts upheld the public service tradition. The New Jersey Supreme Court reaffirmed the duty, saying: "A lawyer needs no motivation beyond his sense of duty and his pride" (*State* 1966). Utah's highest court echoed this noble view: "The assignment has been assumed by the lawyer out of respect for the court in which he serves and out of a sense of responsibility which lawyers feel towards humanity in general" (*Bedford* 1968).

While *pro bono publico* remains a vital duty, a Supreme Court ruling (*Gideon* 1963) that required states to provide counsel to indigents loosened the doctrine's grip. In response to the growing number of compulsory appointments, Congress enacted the Criminal Justice Act of 1964 to provide limited pay.

As more attorneys represented indigent clients, they raised constitutional objections (*Contempt of Spann* 1982). But courts dismissed Thirteenth Amendment challenges to compulsory appointments (*People* 1972, *Roberts* 1995). *Williamson* (1982) said that the "Thirteenth Amendment has never been applied to forbid compulsion of traditional modes of public service even when only a limited segment of the population is so compelled." Courts also ruled that compulsory appointments do not deprive lawyers of their property (*Jackson* 1966, *Tyler* 1973, *Young* 1971) or deny equal protection (*Sparks* 1979).

Currently, the most remarkable aspect of *pro bon publico* is its extension to so many civil actions, including involuntary transfer of elderly patients from a hospital to a nursing home (*Application of St. Luke's-Roosevelt Hosp. Center* 1993), marital dissolution (*Smiley* 1974), termination of parental rights (*In re Ella B.* 1972), adoption (*In re Adoption of R.I.* 1973), paternity disputes (*Salas* 1979), contested deeds (*In re Goreson* (1983), civil contempt (*Otton* 1974), evictions (*Hotel Martha Washington Mgmt. Co.* 1971), and prisoner charges of cruel punishment (*Lofton* 2001).

Compulsory Work of "National Interest" for Conscientious Objectors

The Constitution provides Congress far-reaching authority to call up a militia. President Lincoln implemented the first draft, calling up every male citizen between the ages of 20 and 45. During World War I, Congress authorized another draft. All men between the ages of 21 and 30 were required to register and present themselves for service. Sustaining congressional power to enact this legislation, *Arver v. U.S.* (1918) rejected a Thirteenth Amendment challenge to a wartime draft.

More recently, Congress created an exempt classification for conscientious objectors (COs) in the Universal Military Training and Service Act. COs were required to perform civilian work that contributed to national health, safety, or interest. The duty lasted 24 months and was structured like a full-time job (*U.S. v. Crouch* 1971).

COs worked harder and for less pay compared with their civilian jobs (*Frank v. U.S.* 1951). During World War II, they labored in rural camps (*Kramer* 1945), sometimes six days a week (*U.S. v. Emery* 1948). Hard physical work changed after World War II to urban assignments with social service agencies (*U.S. v. Sutter* 1954). Often, COs were assigned to hospitals or charitable organizations (*Klubnikin* 1956, *Badger* 1963).

Courts did not view civilian work ordered in lieu of military deployment as involuntary servitude (*Davis* 1968, *U.S. v. Burns* 1971, *U.S. v. Phillips* 1970) or a taking of property for public use without just compensation (*U.S. v. Hobbs* 1971). A military emergency was not necessary to justify the government's requirement for duty (*O'Connor* 1969). While many COs held recognized religious titles, they did not qualify for a full ministerial exemption from mandatory civilian work (*Atherton* 1949, *U.S. v. Hoepker* 1955, *U.S. v. Huisinga* 1969, *U.S. v. Niles* 1954, *U.S. v. Smith* 1954, *U.S. v. Thorn* 1970, *U.S. v. Von Nieda* 1955). Typifying courts in the view of COs, *Hopper v. U.S.* (1943) said, "Surely it is not expecting too much to require of them that they do civilian work of national importance at a time when their brothers, under the same compulsion, are giving their lives for them and for the Nation."

Judges were also unmoved when COs claimed that their work conditions were harsh. *U.S. v. Emery* (1948) concluded that "the system of selective service, with its requirements of forced military service for selectees in general and of the substituted work of national importance for conscientious objectors, would not be operable if claimed harshnesses in detail could be contested by refusing any obedience to the system." Nor did courts equate forced civilian duty with convict labor (*Brooks* 1945).

What constituted work that suited the national interest? The CO in *U.S. v. Copeland* (1954) failed to convince a judge that assignment to Goodwill Industries did not fulfill a public purpose. On rare occasion, however, COs were able to avoid civilian duty and escape criminal sanctions. *U.S. v. Casias* (1969) overturned a conviction because the government failed to provide this CO his *Miranda* rights when it sought incriminating information from him. The Seventh Circuit overturned a five-year sentence in *Huisinga* (1970) after the trial judge and draft board failed to account for information showing that the CO had qualified for a full ministerial exemption from any duty.

But court reversals of draft board decisions were rare. The Supreme Court, in *Cox v. U.S.* (1947), explained that Congress denied judges "the customary scope of judicial review which obtains under other statutes. It means that the courts are not to weigh the evidence to determine whether the classification made by the local boards was justified." The practical result was that failure to complete a civilian work assignment resulted in imprisonment up to five years *(U.S. v. Chaudron* 1970). This sanction underscored the coercive nature of the CO's civilian duty.

Public Assistance and Workfare

In the 1820s, indigents could be declared by law as paupers and required to work for the public as a condition for support (*Commonwealth* 1838). A pauper's work in a poorhouse paid his debt for support (*City of Taunton* 1904). Similarly, during the Depression a relief worker's unpaid civic service could payoff his debt to a city (*City of Marlborough* 1937). In the same period, public service employees were unable to block a work relief program that created labor market competition (*Social Investigator Eligibles Ass'n* 1935).

"Workfare" came back into vogue in the 1970s, when some states enacted laws that required aid recipients to perform public services (*Ballentine* 1973). Thus, a state may withhold welfare benefits unless an

individual registers with the job services office (*New York Dep't of State Social Services* 1973). The requirement to register for work in order to receive public aid does not constitute involuntary servitude or peonage in violation of the Thirteenth Amendment (*Brogan* 1990). A recipient's failure to report to work may result in aid termination (*Delgado* 1985). Recipients are not entitled to the same pay as civil service employees or the minimum wage rate (*Johns* 1995). A federal law, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, allows states to require aid recipients to work in order to qualify for benefits.

As a condition for providing aid to a needy family, a state may order a neglectful father to perform community service (*Commonwealth* 1935). A trial court may constitutionally impose a contempt sanction on a parent who refuses to seek employment in order to pay child support (*Moss* 1998). In *Moss*, the California Supreme Court explained: "It has never held that employment undertaken to comply with a judicially imposed requirement that a party seek and accept employment when necessary to meet a parent's fundamental obligation to support a child is involuntary servitude."

Individuals have failed to persuade courts that workfare requirements are a form of peonage. This is because an individual "is under no compulsion to participate in [a state's] general relief program. Moreover, because there is no threat of penal sanction for failure to abide by the work relief rules, the program does not constitute peonage" (*Delgado* 1985). Similarly, *Ballentine* (1973) reasoned: "However difficult the loss of home relief is, a person is not held in a state of peonage when the only sanction for his refusing to work is that he will not receive payments currently. That may be a form of mankind's immemorial bondage of bread; but it is not peonage."

In short, the current trend is to require employment or community service as a condition for public aid. Recipients who do not comply with these work requirements face termination of benefits. For some individuals, this amounts to coerced choice to work or perform public service.

Mandatory Work for Scholarship Recipients: National Health Service Corps

The federal government sponsors a scholarship program for medical students. The National Health Service Corps (NHSC) requires scholarship recipients to work in areas that are medically underserved. This service program was established by the Emergency Health Personnel Act of 1970. Scholarship recipients must work one year in an assignment for each year of tuition support. From a medical student's perspective, the program provides needed financial aid. But some recipients do not fulfill assignments that they consider to be undesirable (*U.S. v. Hatcher* 1991, *U.S. v. Kokayi* 1997, *U.S. v. Ledwith* 1992).

The program does not force doctors to work against their will. However, when recipients renege on their service commitment, the U.S. government sues to recover three times the outstanding amount on the loan. In *U.S. v. Bloom* (1997), the government sued to recover $152,579, plus interest of $345,410. The physician argued unsuccessfully for a waiver of the service requirement because it created family hardships. In *U.S. v. Maldonado* (1994), the United States sued for $412,051 after the recipient accepted $46,878 in scholarship funds but failed to commence his three-year service obligation.

Some physicians argue that the treble damages amount to involuntary servitude. *U.S. v. Redovan* (1986) rejected this reasoning, noting that the doctor who sought to avoid service and the damages provision differed in his circumstances compared to poor illiterates who were victims of peonage. The court explained: "All of the cases cited by the defendant involved unfortunate individuals, some of whom were illiterate and even unable to communicate in English, who were ill equipped to understand the scope of the obligation they entered into until the die was cast. Redovan can hardly claim to be in a similar position. He understood the nature of the obligation before he entered into it as an educated professional."

Courts have consistently upheld the treble-damages provision of the law (*U.S. v. Armstrong* 1991, *U.S. v. Haithco* 1986, *U.S. v. Hayes* 1986, *U.S. v. Turner* 1987). They reason that the value of lost services "is difficult if not impossible to determine" (*U.S. v. Turner* 1987). An additional provision, allowing the government to collect compensatory damages, magnifies damages. *U.S. v. Vanhorn* (1994), for example, awarded the NHSC program damages in the amount of $183,953 based on scholarship monies that totaled $26,582. Ruling that this disparity was not unconscionable, the court emphasized that the doctor was repeatedly told to comply with her service commitment each time before the program escalated the damages. In *U.S. v. Hugelmeyer*

(1991), the disparity between scholarships valued at $50,448 and damages of $307,917 did not violate the doctor's due process rights.

Chapter 7 bankruptcy litigation highlights the hard choice that physicians face between accepting an assignment and paying dearly for the freedom to practice medicine elsewhere. In *Mathews* (1994), an internist preferred to work in Pennsylvania but was assigned to a job in South Dakota. She made no effort to accept the assignment and took her preferred job. The NHSC program sued to recover damages under its scholarship program and won a court repayment order of about $400,000. After Dr. Mathews filed for Chapter 7, a bankruptcy court discharged part of her scholarship debt. But this ruling was reversed by the Third Circuit Court of Appeals. Applying the unconscionability provision in the NHSC regulations, the court concluded that that Dr. Mathews failed to prove that her assignment to South Dakota was shockingly unfair, harsh, or unjust. The fact that she would need to uproot her family from Pennsylvania was unpersuasive.

Like *Mathews*, most courts strictly construe the unconscionability provision in the National Health Service Corps' scholarship program (*in re Dillingham* 1989, *U.S. v. Kephart* 1994, *U.S. v. Quinn* 1989). Only a handful of cases deviate from this trend. One physician had his debt discharged because of physical inability to work in his specialty (*In re Ascue* 2002). A loan recipient who failed to complete her medical degree had 85% of tuition debt cancelled (*In re Owens* 1988).

In sum, courts view the NHSC scholarship program as voluntary. Medical students are not forced to apply for tuition help. But physicians are often provided assignments that are so distant or disruptive to their personal lives that, in their view, the work assignment is involuntary. They have argued that working off debt by performing involuntary labor is unlawful. Courts have uniformly rejected this reasoning.

Conclusions: Debt Relief for Homeowners and Public Service

My study examines five groups of individuals who have been subject to compulsory public service. Their obligations were justified by strong public interests. Road duty was essential to building the nation's transportation infrastructure; lawyers were needed to serve without pay to further the interests of justice; conscientious objectors worked in civilian jobs to further a national interest in maintaining an egalitarian draft; public aid recipients were required to work on moral grounds that they should contribute to their own welfare; and doctors whose medical education was paid by taxpayers were expected to render services to poor and underserved communities.

My research shows, however, that these compulsory work assignments were challenged on numerous legal grounds and almost always failed. Courts rejected the suggestion that these compulsions violated the Thirteenth Amendment. Attempts to use the Peonage Act to undercut mandatory service also failed.

This outcome is explained by the narrow interpretation given to involuntary servitude. On one hand, the Thirteenth Amendment, and its enforcement counterpart in 18 U.S.C. § 1584, have been broadened beyond African slave-holding. These laws apply, for example, to victims of sex trafficking and to illegal immigrants who are held against their will in highly confining work settings.

But the Supreme Court has not broadened the definition of servitude beyond congressionally specified examples. In *U.S. v. Kozminski* (1988), a couple housed and employed two mentally disabled men as farmhands and scared them into thinking that they could not leave the premises. The couple was convicted under the involuntary servitude law, but the Supreme Court overturned the verdict. Rejecting a standard of psychological coercion, *Kozminski* defined involuntary servitude as forcing a person to work by physical or legal coercion.

Kozminski built on *Butler*, a major precedent from 1916 that coincided with the draft in World War I. The significance of *Butler* cannot be dismissed even though road duty has been abolished for nearly a century. The court embraced the Roman law doctrine of *trinoda necessitas*. This law meant that all free men were required to participate in an expedition against an enemy. It is easy to see how this rationale applies to conscientious objectors— free men whose conscience does not permit combat but whose nation demands an equivalent form of civilian work during war.

Current courts have expansively interpreted *Butler* and its motivating doctrine. They uphold community service mandates for high school graduation (*Herndon* 1996, *Immediato* 1995, *Steirer* 1993). The current view of *trinoda necessitas* is that community service can be compelled if the obligation is reasonably

limited and for a valid purpose. This canon applies to high school students who serve their communities—and by similar reasoning, to lawyers who serve courts and the interests of justice.

I conclude by returning to my research question: What is the legality of requiring distressed home borrowers to perform community service as a condition for government assistance in writing off their debt? My research suggests there is no major legal impediment for imposing such a requirement. Compulsory public service has been ordered in the United States since the early 1800s. It has been required of paupers and public aid recipients—people who experienced dire financial circumstances akin to current debtors. And the requirement has been imposed in times of national emergency, similar to economic conditions that have caused the United States to create this new form of private assistance. A service requirement has also been imposed on people who receive direct government assistance in the form of subsidies for their professional education.

My research is motivated by the inequality of sacrifice that surrounds the mortgage relief program. As the United States has funded bailout programs for once-rich corporations, and aid for the poor or unemployed, it has required reciprocation in the form of sacrifice and additional effort by recipients. The powerful and the poor have been required to make sacrifices as a condition to receive a government bailout. But a transfer of $50 billion to "middle class homeowners" (U.S. Department of Treasury 2009b) requires nothing more than filling out forms and meeting eligibility requirements.

My research provides context for this government largess. The housing subsidy is most akin to the Jewish concept of unconditional debt forgiveness every sabbatical year. This munificent precept assumes that the debtor cannot meet his obligation, and further assumes that a fresh start for the debtor is good for society. Obviously, the historical models from Rome and England are far too extreme to consider—but why is no thought given to a limited form of paying back part of the debt-aid by requiring community service? My research shows that others have paid a literal or metaphorical debt to society by performing mandatory public service. As debtor relief programs continue to evolve, a public service requirement is a viable legal option that policymakers should consider.

References

Application of St. Luke's-Roosevelt Hosp. Center, 607 N.Y.S.2d 574 (N.Y. 1993).
Arkansas County v. Freeman & Johnson, 31 Ark. 266 (1876).
Arver v. U.S., 245 U.S. 366 (1918).
Atherton v. U.S., 176 F.2d 835 (9th Cir. 1949).
Badger v. U.S., 322 F.2d 902 (9th Cir. 1963).
Ballentine v. Sugarman, 344 N.Y.S.2d 39 (N.Y. Sup. 1973).
Barrow v. Hepler, 34 La.Ann. 362 (1892).
Bedford v. Salt Lake County, 447 P.2d 193, 194 (Utah 1968).
Biss v. Town of New Haven, 42 Wis. 605 (Wis. 1877).
Blythe v. State, 4 Ind. 525, 1853 WL 3375 (Ind. 1853).
Bouton v. Neilson, 3 Johns. 474 (N.Y.Sup. 1808).
Brogan v. San Mateo County, 901 F.2d 762, 764 (9th Cir. 1990).
Brooks v. U.S., 147 F.2d 134 (2d Cir. 1945).
Burlington & M.R.R.Co. v. Lancaster County, 4 Neb. 293 (Neb. 1876).
Butler v. Perry, 240 U.S. 328 (1916).
Carpenter v. Dane County, 9 Wis. 274 (Wis. 1859).
City of Marlborough v. City of Lowell, 10 N.E.2d 104 (Mass. 1937).
City of Taunton v. Talbot, 71 N.E. 785 (Mass. 1904).
Commonwealth v. Inhabitants of Cambridge, 37 Mass. 267 (Mass. 1838).
Commonwealth v. Pouliot, 198 N.E. 256 (Mass. 1935).
Contempt of Spann, 443 A.2d 239 (N.J. 1982).
Countryman, Vern. 1983. "Bankruptcy and the Individual Debtor—and a Modest Proposal to Return to the Seventeenth Century." *Catholic University Law Review*, Vol. 32, pp. 809–43.
Cox v. U.S., 332 U.S. 442 (1947).

Darby, Michael R. 1976. "Three-and-a-half Million U.S. Employees Have Been Mislaid: Or, An Explanation of Unemployment, 1934–1941." *Journal of Political Economy*, Vol. 84, No. 1 (Feb. 1976), pp. 1–16.
Davis v. U.S., 400 F.2d 577 (5th Cir. 1968).
Delgado v. Milwaukee County, 611 F.Supp. 278 (E.D. Wisc. 1985).
Dennis v. Simon, 36 N.E. 832 (1894).
DeTavernier v. Hunt, 53 Tenn. 599 (Tenn. 1871).
Elam v. Johnson, 48 Ga. 348 (1873).
Ex Parte Roberts, 11 S.W. 782 (Tex.Ct.App. 1889).
Frank v. U.S., 236 F.2d 39 (9th Cir. 1951).
Galoway v. State, 202 S.W.76 (Tenn. 1918).
Gideon v. Wainwright, 372 U.S. 335 (1963).
Hall v. Washington County, 2 Greene 473 (Iowa 1850).
Harper (Collector) v. Broosher, 240 S.W. 729 (Ark. 1922).
Herndon by Herndon v. Chapel Hill-Carrboro City Bd. of Educ., 89 F.3d 174 (4th Cir. 1996).
Holdsworth, Sir William. 1964. *A History of English Law, Vol. XIV*. London: Methuen and Co.
Hopper v. U.S., 142 F.2d 181 (9th Cir. 1943).
Hotel Martha Washington Mgmt. Co. v. Swinick, 322 N.Y.S.2d 139 (N.Y. 1971).
House v. Whitis, 64 Tenn. 690 (1875).
Huisinga v. U.S., 422 F.2d 635 (7th Cir. 1970).
Immediato by Immediato v. Rye Neck School Dist., 873 F.Supp. 846 (S.D.N.Y. 1995).
In re Adoption of R.I., 312 A.2d 601 (Pa. 1973).
In re Ascue, 2002 WL 192561 (W.D. Va. 2002).
in re Dassler, 35 Kan. 678 (1886).
in re Dillingham, 104 B.R. 505 (N.D. Ga. 1989).
In re Ella B., 285 N.E.2d 288 (1972).
In re Goreson v. Gallagher, 485 N.Y.S.2d 664 (N.Y. 1983).
In re Owens, 82 B.R. 960 (Bankr. N.D. Ill. 1988).
Jackson v. State, 413 P.2d 488 (Alaska 1966).
Johns v. Stewart, 57 F.3d 1544 (10th Cir. 1995).
Johnson v. Whiteside County, 110 Ill. 22 (1884).
Johnston v. City of Macon, 62 Ga. 645 (1879).
Johnston v. Lewis and Clarke County, 2 Mont. 159 (1874).
Kennedy, David S., and R. Spencer Clift III. 2000. "An Historical Analysis of Insolvency Laws and Their Impact on the Role, Power, and Jurisdiction of Today's United States Bankruptcy Court and Its Judicial Officers." *Journal of Bankruptcy Law and Practice*, Vol. 9 (January), pp. 165–200.
Klubnikin v. U.S., 227 F.2d 87 (9th Cir. 1956).
Kramer v. U.S., 147 F.2d 756 (6th Cir. 1945).
Lamont v. Solano County, 49 Cal. 158 (1874).
Landry, Robert J. III, and Nancy Hisey Mardis. 2006. "Consumer Bankruptcy Reform: Debtors; Prison without Bars or 'Just Desserts' for Deadbeats?" *Golden Gate Law Review*, Vol. 36, pp. 91–120.
Leedy v. Town of Bourbon, 40 N.E. 640 (1895).
Lofton v. Delassandri, 3 Fed.Appx. 658 (10th Cir. 2001).
Lowery v. State, 12 S.W. 563 (Ark. 1889).
Mathews v. Pineo, 19 F.3d 121, 123 (3d Cir. 1994).
Miller v. Gorman, 38 Pa. 309 (Pa. 1861).
Moss v. Superior Court (Ortiz), 17 Cal.4thRptr. 396, 950 P.2d 59 (1998).
Nabb v. U.S., 1 Ct. Cl. 173 (1864).
New York Dep't of State Social Services v. Dublino, 413 U.S. 405 (1973).
O'Connor v. U.S., 415 F.2d 1110 (9th Cir. 1969).
Otton v. Zaborac, 525 P.2d 537 (Alaska 1974).
Overseers of the Poor of Amenia v. The Overseers of Stanford, 6 Johns. 92 (1810).
People v. Hutchinson, 195 N.W.2d 787 (1972).

People ex rel. Karlin v. Kulkin, 162 N.E. 487 (N.Y. 1928).
People ex rel. Whedon v. Bd. of Supervisors, 183 N.Y.S. 438 (3d Dep't 1920).
Phoebe v. Jay, 1 Ill. 268 (1828).
Pickering v. Pkickaickering, 11 N.H. 141 (N.H. 1841).
Posey & Tompkins v. Mobile County, 50 Ala. 6 (1873).
Presby v. Klickitat County, 31 P. 876 (1892).
Probst v. Calhoun County Court, 106 S.E. 878 (W.Va. 1921).
Roberts v. State of South Carolina, 456 S.E.2d 905 (S.C. 1995).
Rowe v. Yuba County, 17 Cal. 61 (Cal. 1860).
Ruckenbrod v. Millins, 133 P.2d 325 (1943).
Salas v. Cortez, 593 P.2d 226 (1979).
Salmond, John A. 1965. "The Civilian Conservation Corps and the Negro." *Journal of American History*. Vol. 52, No. 1 (June 1965), pp. 75–88.
Sawyer v. Alton, 4 Ill. 127 (Ill. 1841).
Smiley v. Smiley, 356 N.Y.S.2d 733 (N.Y.A.D. 1974).
Social Investigator Eligibles Ass'n v. Taylor, 197 N.E. 262 (N.Y. 1935).
Sparks v. Parker, 368 So.2d 528 (Ala. 1979).
State v. Holloman, 52 S.E. 408 (N.C. 1905).
State v. Rush, 217 A.2d 441 (N.J. 1966).
State v. Wheeler, 141 N.C. 773 (1906).
Steirer by Steirer v. Bethlehem Area School Dist., 987 F.2d 989 (3d Cir. 1993).
The Case of Mary Clark, 1 Blackf. 122 (Ind. 1812), also available in 1821 WL 974 (Ind.).
Town of Starksborough v. Town of Hinesboro, 13 Vt. 215 (1841).
Tyler v. Lark, 472 F.2d 1077, 1078-79 (8th Cir. 1973).
U.S. Department of the Treasury. 2009a. *Home Affordable Modification*. <http://www.makinghomeaffordable.gov/eligibility.html>.
U.S. Department of Treasury. 2009b. *Fact Sheet: Financial Stability Plan*. <http://www.financialstability.gov/docs/fact-sheet.pdf>.
U.S. v. Armstrong, 784 F.Supp. 356 (N.D. Tex. 1991).
U.S. v. Bloom, 112 F.3d 200 (5th Cir. 1997).
U.S. v. Burns, 450 F.2d 44 (10th Cir. 1971).
U.S. v. Casias, 306 F.Supp. 166 (D.C. Col. 1969).
U.S. v. Chaudron, 425 F.2d 605 (8th Cir. 1970).
U.S. v. Copeland, 126 F.Supp. 734 (D.C. Conn. 1954).
U.S. v. Crouch, 415 F.2d 425 (5th Cir. 1971).
U.S. v. Emery, 168 F.2d 454 (2d Cir. 1948).
U.S. v. Haithco, 644 F.Supp. 63 (W.D. Mich. 1986).
U.S. v. Hatcher, 922 F.2d 1402 (9th Cir. 1991).
U.S. v. Hayes, 633 F.Supp. 1183 (M.D.N.C. 1986)
U.S. v. Hobbs, 450 U.S. 935 (10th Cir. 1971).
U.S. v. Hoepker, 223 F.2d 921 (7th Cir. 1955).
U.S. v. Hugelmeyer, 774 F.Supp. 559 (D. Az. 1991).
U.S. v. Huisinga, 300 F.Supp. 204 (E.D. Ill. 1969).
U.S. v. Kephart, 170 B.R. 787 (W.D.N.Y. 1994).
U.S. v. Kokayi, 968 F.Supp. 870 (E.D.N.Y. 1997).
U.S. v. Kozminski, 487 U.S. 931 (1988).
U.S. v. Ledwith, 805 F.Supp. 371 (E.D. Va. 1992).
U.S. v. Maldonado, 867 F.Supp. 1184 (S.D.N.Y. 1994).
U.S. v. Niles, 122 F.Supp. 383 (N.D.Cal. 1954).
U.S. v. Phillips, 423 F.2d 1134 (5th Cir. 1970).
U.S. v. Quinn, 102 B.R. 865 (Bankr. M.D. Fla. 1989).
U.S. v. Redovan, 656 F.Supp. 121 (E.D.Pa 1986).

U.S. v. Smith, 124 F.Supp. 406 (E.D. Ill. 1954).
U.S. v. Sutter, 127 F.Supp. 109 (C.D. Cal. 1954).
U.S. v. Thorn, 317 F.Supp. 389 (E.D.La. 1970).
U.S. v. Turner, 660 F.Supp. 1323 (E.D.N.Y. 1987).
U.S. v. Vanhorn, 20 F.3d 104 (4th Cir. 1994).
U.S. v. Von Nieda, 134 F.Supp. 455 (E.D. Pa. 1955).
Vise v. Hamilton County, 19 Ill. 78 (1857).
Walker v. Moseley, 5 Denio 102 (N.Y. Sup. 1847).
Washoe Co. v. Humboldt Co., 14 Nev. 123 (1879).
Wayne County v. Waller, 90 Pa. 99 (1879).
Webb v. Baird, 6 Ind. 13 (1854).
Whicher v. Bd. of Commissioners of Cedar County, 1 Greene 217 (Iowa 1848)
Whitt v. City of Gadsen, 49 So. 682 (Ala. 1909).
Williamson v. Vardeman, 647 F.2d 1211 (8th Cir. 1982).
Woolard v. McCullough, 1841 WL 746 (N.C. 1841).
Young v. State, 255 So.2d 318 (Miss. 1971).