Introduction

> Amsterdam is now undisputedly Europe's most famous city of commerce. Even though it does not possess ancient roots, in its novelty it is happier than many older and once renowned cities. Truly, today it seems like none can be compared to Amsterdam, be it in terms of greatness … or the amount of people, wealth, and flourishing maritime commerce from all corners of the world.[1]

Seventeenth-century Amsterdam was a city of innovations. Explosive economic growth and the expansion of overseas trade went hand in hand with a high level of religious tolerance. These developments sparked great institutional, socioeconomic, and legal changes. Therefore, it is unsurprising that many histories of the city on the Amstel are success stories. Similar to the contemporary immigrants Jacques Le Moine De L'Espine and Isaac le Long cited above, many historians have tried to explain its remarkable cultural and economic efflorescence in this period.[2]

[1] Jacques le Moine de l'Espine and Isaac le Long, *De koophandel van Amsterdam* (Amsterdam: Andries van Damme en Johannes Ratelband, 1714), 3–4.

[2] Jonathan I. Israel, *Dutch Primacy in World Trade, 1585–1740* (Oxford: Clarendon Press, 1989); Jan de Vries and Ad van der Woude, *The First Modern Economy: Success, Failure, and Perseverance of the Dutch Economy, 1500–1815* (Cambridge University Press, 1997); Clé Lesger, *Handel in Amsterdam ten tijde van de Opstand. Kooplieden, commerciële expansie en verandering in de ruimtelijke economie van de Nederlanden ca. 1550–ca. 1630* (Hilversum: Verloren, 2001); Oscar Gelderblom, *Zuid-Nederlandse kooplieden en de opkomst van de Amsterdamse stapelmarkt (1578–1630)* (Hilversum: Verloren, 2000); Oscar Gelderblom, *Cities*

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However, this does not mean that the seventeenth century was a golden age for all of Amsterdam's citizens. In these same years, many of them actually expressed their concerns about the "expensive and woeful times." Rather than enjoying the fruits of flourishing commerce, these citizens were confronted with *slegte neering* or "bad trade." One of them, the merchant Jan Arnout Wichelhuysen, explained how "the upcoming war, bad debtors, and slow repayments of [his own outstanding] debts" had been important factors contributing towards his insolvency in 1695.[3] As Joseph Schumpeter argued with regard to his concept of "creative destruction," continuous economic growth and innovations are almost necessarily paired with the failure and disappearance of less successful, inefficient business ventures. Therefore, business failure and insolvencies are generally seen as an inescapable feature of the advent of modern capitalism.[4] This book is not a collection of the success stories of merchants and entrepreneurs such as Reinier Pauw, Louis de Geer, or the brothers Louis and Elias Trip.[5] Resisting the attraction of these powerful magnates, it will instead focus on people such as Van Wichelhuysen, whose businesses failed.

This book analyzes the impact of the introduction of the Desolate Boedelskamer or "Chamber of Insolvent and Abandoned Estates" in 1643 on Amsterdam's economy and society between 1578 and 1700. Through a broad archival analysis of the social and economic context in which insolvency legislation was created and applied in seventeenth-century Amsterdam, it will highlight the ways in which innovative governance and legal practices interacted with moral thought in order to produce a liberal, open-access insolvency regime.

As James Whitman argues, it is held as common consensus that "it was in seventeenth-century Holland … that the most striking and

of Commerce: The Institutional Foundations of International Trade in the Low Countries, 1250–1650 (Princeton University Press, 2013); Maarten Prak and Jan Luiten van Zanden, *Pioneers of Capitalism: The Netherlands 1000–1800* (Princeton University Press, 2023).

[3] Gemeente Amsterdam Stadsarchief [GAS], 5072: Archief van de Commissarissen van de Desolate Boedelkamer [DB], inv. nr. 697, nr. 26.

[4] Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy* (New York: Harper & Brothers, 1942), 81–86.

[5] See e.g. Kees Zandvliet, *De 500 rijksten van de Republiek. Rijkdom, geloof, macht & cultuur* (Zutphen: Walburg Pers, 2018); Menno Witteveen, *Reinier Pauw (1564–1636) en Amsterdam. De macht van een man en een stad* (Amsterdam: Boom, 2022).

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seminal developments in the rise of a modern commercial order took place."[6] Amsterdam, being the locus of legal and institutional innovations in the early modern Dutch Republic, has naturally received most attention from economic, social, and cultural historians. This motivated the choice to make Amsterdam the focus of this legal-historical analysis, in order to confront existing theories in its historiography – which will be treated in subsequent sections of this introductory chapter – with new evidence from the city's legal archives.

This book moves beyond important research trends that prevail in both legal and economic historical scholarship. Instead of a singular focus on either legal doctrine or the functioning of markets and economic growth, it approaches the legal, institutional, socioeconomic, and cultural history of early modern Amsterdam as an interconnected whole. It will therefore also argue in favor of an "embedded" perspective on the economy, not separated from but fundamentally related to all these cultural, moral, and social dimensions of life that come together in the archives left behind by the inhabitants of seventeenth-century Amsterdam.[7] The central topic around which this analysis has been constructed is insolvency legislation. Insolvency, as a crucial junction of the fundamental contextuality of commercial law, can illuminate a number of different things about Amsterdam's Golden Age.

First, as Jean Limpens remarks, "insolvency legislation is one of the melting-pots in which all legal affairs amalgamate." Those studying insolvency have to take into account all other legal fields that might have an impact on the person or business in financial distress.[8] At the same time, solid and transparent insolvency legislation is a "vivid and important part of the legal framework of market economies," as it provides creditors with confidence in the rules that safeguard

[6] James Q. Whitman, "The Moral Menace of Roman Law and the Making of Commerce: Some Dutch Evidence," *The Yale Law Journal* 105, no. 7 (1995): 1841–89, 1844.

[7] On the notion of "embeddedness" and the debate on its role in economics, see e.g. Mark Granovetter, "Economic Action and Social Structure: The Problem of Embeddedness," *American Journal of Sociology* 91, no. 3 (1985): 481–510.

[8] Louis F. Ganshof, *Le Droit de la faillite dans les états de la Communauté économique européenne* (Brussels: Centre Interuniversitaire de Droit Comparé, 1969), Preface: "[Le droit de la faillite] est l'un des creusets ou tous les materiaux juridiques s'amalgament."

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their investments.[9] Therefore, historical analysis of the phenomenon of insolvency constitutes an important meeting ground for legal and economic historians.

Second, and connected to this observation, insolvency and economic misfortune are not restricted to specific classes or social groups. A singular focus on businesses and the production side of the economy is both one-sided and insufficient to understand processes of change in (economic) history. In the household, important decisions were taken on the size and contents of consumption, labor supply, savings, and investments in human capital through education.[10] An analysis of the broader impact of an institution such as the Desolate Boedelskamer makes it possible to bridge the gap in historiography between the study of (international) merchants and the upper classes on the one hand, and the household economics of the middle classes on the other.

Third and finally, this draws attention to an important debate in economic history and sociology between adherents of the schools of the "new institutional economics,"[11] and a "moral economy."[12] Any analysis which seeks to separate morality and economy, or financial aspects from social relations, can never hope to fully understand people from the past and the societies in which they lived. In this

[9] Bob Wessels, Bruce Markall, and Jason Kilborn, *International Cooperation in Bankruptcy and Insolvency Matters* (Oxford University Press, 2009), 1–2.

[10] Jan Luiten van Zanden and Arthur van Riel, *The Strictures of Inheritance: The Dutch Economy in the Nineteenth Century*, trans. Ian Cressie (Princeton University Press, 2004), 319–27.

[11] Douglass C. North and Robert Paul Thomas, *The Rise of the Western World: A New Economic History* (Cambridge University Press, 1973); Douglass C. North, *Institutions, Institutional Change, and Economic Performance* (Cambridge University Press, 1990); Avner Greif, *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade* (Cambridge University Press, 2006); Sheilagh C. Ogilvie and A. W. Carus, "Institutions and Economic Growth in Historical Perspective," in *Handbook of Economic Growth*, ed. Philippe Aghion and Steven N. Durlauf, 2 vols. (Amsterdam: Elsevier, 2014), IIA:403–513.

[12] Karl Polanyi, *Great Transformation: The Political and Economic Origins of Our Time*, 2nd ed. (Boston: Beacon Press, 2001); Edward P. Thompson, "The Moral Economy of the English Crowd in the Eighteenth Century," *Past & Present* 50 (1971): 76–136; Craig Muldrew, "Interpreting the Market: The Ethics of Credit and Community Relations in Early Modern England," *Social History* 18, no. 2 (1993): 163–83; Craig Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (Basingstoke: Macmillan Press, 1998); Laurence Fontaine, *The Moral Economy. Poverty, Credit, and Trust in Early Modern Europe* (New York: Cambridge University Press, 2014).

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book, insolvency legislation and practices in seventeenth-century Amsterdam will serve as the lens through which the functioning of early modern institutions will be explored and analyzed as part of their broader civic framework.

Insolvency and Bankruptcy

Generally, one can distinguish two major forms of financial demise: "insolvency" (Dutch: *faillissement* or *insolventie*) and "bankruptcy" (Dutch: *bankroet*). "Insolvency" is usually employed as a neutral term, to describe an economic condition. This word is derived from the Latin verb *solvo*, which combined with the negative prefix "-in" can be translated as "to be unable to pay." "Bankruptcy," on the other hand, generally indicates a legal status. According to a widespread story, this term originated in late medieval Italy. When a merchant or money changer was unable to fulfil their obligations, the wooden bench where they conducted their business was broken in half to publicly signify their incapacity to honor their obligations: *banca rotta* or "broken bench." However, Sandor Schick convincingly argues that bench-breaking is a myth, and no evidence can be found to substantiate it. Whatever its origin, "bankruptcy" came to be associated with fraud or dishonesty early on. The malversation of private property made it a deeply offensive phenomenon. This sentiment is also expressed by other recurring terms for bankrupts, such as *decoctor* (lit. "reduced by cooking") – one who consumed their own substance.[13] While in general parlance, insolvency and bankruptcy are often used as interchangeable substitutes, the more precise distinction in meaning between these two terms can be observed in a wide variety of past and present legal systems.[14]

[13] Thomas Max Safley, "Introduction: A History of Bankruptcy and Bankruptcy in History," in *The History of Bankruptcy: Economic, Social and Cultural Implications in Early Modern Europe*, ed. Thomas Max Safley (London: Routledge, 2013), 2–3; Sandor E. Schick, "Globalization, Bankruptcy and the Myth of the Broken Bench," *American Bankruptcy Law Journal* 80, no. 2 (2006): 219–60; Annamaria Monti, "Fallimento-impresa," in *Parole in Divenire. Un vademecum par l'uomo occidentale*, ed. Alberto Sciumè and Aldo A. Cassi (Turin: Giappichelli, 2016), 43–57.

[14] Paolo Di Martino, Mark Latham, and Michelangelo Vasta, "Bankruptcy Laws Around Europe (1850–2015): Institutional Change and Institutional Features," *Enterprise & Society* 21 (2020): 1–55, esp. n. 2.

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In his well-known *Hollandsch Rechtsgeleerd Woordenboek* or "legal dictionary," the notorious but best-selling eighteenth-century legal scholar Franciscus Kersteman defines *insolventie* as the situation in which "a person, incapable of repaying his debts due to misfortune, losses, and other disasters, hands over his estate to the local *Desolate Boedelskamer* or relevant local court, to his creditors' benefit."[15] On the other hand, he describes a *bankroetier* as "a person, who after concluding fraudulent debts, and without properly fulfilling his creditors' legal claims, absconds and becomes a fugitive."[16] Grotius had already employed the same widespread designation of bankrupts as "die schuilen ofte weg-loopen met onbetaelde schulden" or "those who hide or abscond while leaving debts unpaid."[17] A similar image emerges from the French *code du commerce* of 1673, in which it is stressed: "La faillite ou banqueroute. Ces mots ne sont point synonymes" – "insolvency" and "bankruptcy" are not synonyms. While a *faillite* was simply someone who could not pay their debts "due to losses resulting from a considerable accident, for which he could in no way be held responsible," a *banqueroute* willingly caused their own financial demise, for instance by "involving [themself] in indiscreet engagements or risky business." The criminal nature of the bankrupt was most fully revealed if they ran off with their creditors' possessions, or tried to rob them through other fraudulent actions such as those covered by the *actio pauliana*.[18] In this book, therefore, the term "bankruptcy" will be reserved for fraudulent insolvencies.

Insolvency Legislation in the Early Modern Dutch Republic

In late medieval Europe, failing to fulfil one's financial obligations was indiscriminately and severely punished. In many cities and states, it

[15] Franciscus Lievens Kersteman, *Hollandsch rechtsgeleerd woorden-boek* (Amsterdam: Wed. van Esveldt en Holtrop, 1777), 205–6.

[16] Ibid. 36.

[17] Hugo de Groot, *Inleidinge tot de Hollandsche rechts-geleerdheid*, ed. F. Dovring, H. F. W. D. Fischer, and E. M. Meijers, 2nd ed. (Universitaire Pers Leiden, 1965), 62, II.5.3; see also J. A. Ankum, *De geschiedenis der "actio Pauliana"* (Zwolle: Tjeenk Willink, 1962), 368.

[18] Daniel Jousse, *Nouveau Commentaire sur l'ordonnance du commerce des mois de mars 1673* (Paris: Jean Debure, 1777), esp. 149–50; Ankum, *De geschiedenis der "actio Pauliana."*

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was common to use public shaming sanctions for those unable to pay their debts. The fact that such harsh measures were not just restricted to fraudulent or fugitive bankrupts, but also used for honest but unfortunate insolvents, illustrates the essentially criminal nature that attached to the legal treatment of insolvencies well into early modern times. Contemporary legal scholars in many parts of Europe generally presumed that every insolvent would automatically have committed fraud, as characterized by Baldus's well-known maxim *fallitus, ergo fraudator*.[19] Of course, this did not encourage unfortunate victims of economic circumstances willingly to place themselves in the hands of their creditors: many problematic debtors (initially) chose to run off with their remaining possessions rather than face a court.[20] This negative view is also reflected in much of the insolvency legislation from this period. In his 1540 *Eeuwig Edict* or "Perpetual Edict," for instance, Emperor Charles V even decreed that all fugitive bankrupts had to be punished with a death sentence, regardless of whether they eventually paid their debts or not.[21] However, it seems that in the Low Countries such harsh ordinances were rarely carried out in practice. Quite to the contrary, especially in parts of Holland, the late sixteenth and seventeenth centuries witnessed the development of increasingly liberal local insolvency regimes.

According to James Whitman, this was linked to the "moral lessons" of Roman law, which became ever more influential in the Dutch Republic in this period. The new legal tradition would have provided a way to normalize commercial activities and actions that used to be strongly condemned in the past.[22] However, Wouter Druwé has argued that in the writings of contemporary legal scholars, "no unequivocal weakening effect of Roman Law on shaming practices can

[19] Baldus, Cons. 392; referred to by Willem L. P. A. Molengraaff, *Leidraad bij de beoefening van het Nederlandsche handelsrecht* (Haarlem: Erven F. Bohn, 1925), 882. See also Monti, "Fallimento-impresa," 44–46; Chapter 2 below.

[20] As Forster argues, the fact that late medieval jurisprudence did not allow compositions with a living debtor, unless they formed the incentive for a fugitive insolvent to return and facilitate the execution of their estate, might have been the reason why so many medieval insolvents were forced to become *fugitivi*: Wolfgang Forster, *Konkurs als Verfahren. Francisco Salgado de Somoza in der Geschichte des Insolvenzrechts* (Cologne: Böhlau, 2009), 212–15.

[21] J. Lameere and H. Simont (eds.), *Recueil des ordonnances des Pays-Bas. Deuxième série 1506–1700*, 8 vols. (Brussels: J. Goemaere, 1907), IV:233–34.

[22] Whitman, "The Moral Menace."

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be observed."[23] Furthermore, as Griet Vermeesch states with regard to the accessibility of courts, early modern litigants should not be viewed as powerless targets for top-down policies, but actively helped to shape the law and its functioning.[24] Limiting oneself to the study of legal doctrine, therefore, would not suffice to properly analyze a topic that is as rich and multifaceted as insolvency in seventeenth-century Amsterdam. It is crucial to cross-check legislation with historical evidence of its application in practice.

This leads to the important question of how we can explain change in legal history, if not through doctrinal analysis. Randall Lesaffer has stated that legal historians should employ a method which he calls *law in history*: the historical study of law within its broader social, economic, cultural, and political context. This makes sense, as the historian is not primarily concerned with the origins or further evolution of law as such, but studies it as a phenomenon within the particular society and time in history where it occurred.[25] Law, therefore, is always a social construct, and its ethics dependent on a history of communication. This makes it the subject of a history of ideas, which should make use of the proper historical method of interpretation, *Verstehen*.[26] This method should be understood as "a dialogical progression between stored knowledge and new information." In this process, the "complementary imagination" of historians plays an important heuristic role.[27]

As I will argue in this book, the introduction of the Amsterdam Desolate Boedelskamer in 1643 proved to be a crucial step in the consolidation of transparent, widely accessible, and more humane

[23] Wouter Druwé, "Dignity and Cessio Bonorum in Early-Modern Dutch Learned Legal Literature," Max Planck Institute for European Legal History Research Paper Series 2016-08 (2016), 23.

[24] Griet Vermeesch, "Reflections on the Relative Accessibility of Law Courts in Early Modern Europe," *Crime, Histoire & Sociétés / Crime, History & Societies* 19, no. 2 (2015): 53–76, 65.

[25] Randall Lesaffer, "Law and History: Law between Past and Present," in *Law and Method. Interdisciplinary Research into Law*, ed. Bart van Klink and Sanne Taekema (Tübingen: Mohr Siebeck, 2011), 136.

[26] Wolfgang Ernst, "Zur Epistemologie rechtsgeschichtlicher Forschung," *Rechtsgeschichte* 23 (2015): 256–59, 256.

[27] Michael Stolleis, "Methode der Rechtsgeschichte," in *Handwörterbuch zur deutschen Rechtsgeschichte (HRG) Konfliktbewältigung – Nowgorod*, ed. Albrecht Cordes, currently 4 vols. (Berlin: Schmidt, 2016), III:1480.

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insolvency procedures. In order to explain these changes, we have to study the law as part of its broader historical context. Therefore, this book will mainly focus on the institutional, procedural, social, and economic dimensions of insolvency legislation. Such reconstructions can only be made through detailed archival analysis.[28] The next sections will introduce and explain both the broader analytical framework and the methodological choices that were made when writing this book.

Amsterdam's Success Story: Institutions and Economic Growth

Historians have suggested many different explanations for Amsterdam's rise to primacy among the Low Countries' trading cities. As the seventeenth-century English ambassador William Temple observed, in the period of its greatest commercial success Amsterdam actually had a very incommodious port, which big ships could only enter during high tide. This led him to conclude that "'tis not an Haven that draws Trade, but Trade that fills an Haven, and brings it in vogue."[29] This "Trade," the general economic climate, was the sum of all the individual merchants, artisans, and entrepreneurs who were based in Amsterdam in this period. Temple, therefore, already points at the tension between structure and agency, endogenous or exogenous factors, as the most important cause for economic growth.

In the historiographical debates on the rise of Amsterdam as a city of commerce, two main positions can be identified. A first strand of argumentation focuses on long-term endogenous economic developments in order to explain the Dutch Republic's economic take-off. Jan de Vries and Ad van der Woude have pointed out that the elastic supply of shipping space, low transaction costs, and the efficiently functioning markets that originated with Amsterdam's traditional

[28] I have published more elaborately about the use of historical research methodologies for legal scholars elsewhere: Maurits den Hollander, "On the Relations between Law and History," *Forum Historiae Iuris* (2019) (online journal).

[29] William Temple, *Ambassadeur in de Lage Landen – Observations upon the United Provinces*, ed. Daniel Jeen Roorda and Y. H. Foppema (Haarlem: Fibula – Van Dishoek, 1978), 135.

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Baltic trade formed ideal preconditions for its great expansion in international commerce in the last quarter of the sixteenth century. The fact that merchants reinvested their profits would have stimulated the rise of a more efficient range of institutions, such as the Bank of Exchange; technological innovations, such as the *Fluit* ship; and specialization. All of this combined to reduce transaction costs, which they see as the prime reason why Amsterdam became the world's central, dominant commercial center or "staple market."[30] According to Clé Lesger, Amsterdam functioned as the prime *information* market of the Low Countries rather than as a physical "staple market"; as the Dutch gateway in a developing modern transit trade system. In this information economy, southern migrants would have played a crucial role through the introduction of innovative financial techniques and pre-existing networks in regions where Amsterdam merchants lacked connections up to that time.[31]

This ties in with the second classic argument on the economic rise of Amsterdam, as voiced by Jonathan Israel: Amsterdam owed its rise to immigrants from the Southern Netherlands, especially those who fled Antwerp after the Spanish captured this great city of commerce in 1585.[32] The rich and skilled southern artisans and merchants would have "brought not only their knowledge, capital, and talents, but also the strong motivation to make things work" to Amsterdam, which was said to have turned into "the most Brabantine city of the North" or "the new Antwerp."[33] However, even though a large number of southerners migrated to Amsterdam in the years after 1585, Oscar Gelderblom argues that their influence on the expansion of Amsterdam's commerce should not be overestimated: "the bulk of the immigrants were young men of modest means, … still at the beginning of their career in international trade." Amsterdam's attractiveness was grounded in pre-existing endogenous factors, but for the immigrants these were formed by its existing integration with Antwerp rather than the Baltic trade. As merchants from north and south successfully collaborated in numerous ventures both before and

[30] De Vries and Van der Woude, *First Modern Economy*, 669–71.
[31] Lesger, *Handel in Amsterdam*.
[32] Israel, *Dutch Primacy in World Trade, 1585–1740*.
[33] Gustaaf Asaert, *1585. De val van Antwerpen en de uittocht van Vlamingen en Brabanders* (Tielt: Lannoo, 2004), 136–37.

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after the Dutch Revolt, Gelderblom sees them as "part of one single, native merchant community which developed in the Low Countries in the course of the sixteenth century."[34]

How can these factors help us to understand Amsterdam's success story? It is broadly acknowledged that an early market economy, such as late medieval Holland, had the potential to spark "Smithian" economic growth: market exchange leads to specialization – relative productivity gains – which capitalists systematically exploit for profit.[35] Neoclassical economics presumes a world of perfect information, in which all is determined by the utilitarian interests of individual actors and institutions.[36]

The main critique of the important school of new institutional economics (NIE) on this traditional image is that it fails to consider transaction costs. Such costs include that of organizing and obtaining economic information or reducing the risks inherent in commerce, such as piracy or the failure of debtors to repay their loans. Douglass North and other adherents of the NIE made "institutions" into the central subject of their analysis, in order to consider how institutional constraints actually limit actors in their pursuing of self-interest in a reality of imperfect information. If growth is to proliferate, economic organization needs to be efficient. The protection of property rights is seen as essential to attain this goal, as these make it worthwhile for individuals to engage in economically productive activities.[37] North initially emphasized the importance of strong states, which would have possessed the military means to guarantee the legal enforcement of the open-access institutions that helped merchants to overcome the problems caused by early modern Europe's political and legal

[34] Gelderblom, *Zuid-Nederlandse kooplieden*, 250–53; Oscar Gelderblom, "Continuïteit en verandering in de handelsgeschiedenis van Amsterdam," *BMGN – Low Countries Historical Review* 118, no. 1 (2003): 49–57.

[35] Prak and Van Zanden, *Pioneers of Capitalism*, 7; Bas van Bavel, *Manors and Markets: Economy and Society in the Low Countries, 500–1600* (Oxford University Press, 2010).

[36] Muldrew, "Interpreting the Market."

[37] Douglass C. North, *Structure and Change in Economic History* (New York: Norton, 1981); North, *Institutions, Institutional Change*. A useful overview of the development and thinking of the NIE can be found in Rudolf Richter, "The New Institutional Economics: Its Start, Its Meaning, Its Prospects," *European Business Organization Law Review* 6, no. 2 (2005): 161–200.

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fragmentation.[38] However, this is difficult to square with the early expansion of European international commerce, in the absence of centralized states.[39]

An entirely different strand of criticism on neoclassical economics is that it fails to take social relations into account. Based upon the substantivist anthropology of Karl Polanyi,[40] historians such as Edward Thompson, Craig Muldrew, and Laurence Fontaine have argued that economic life should not be studied as an autonomous sphere, but as fundamentally submerged or "embedded" in social relations. They argue that the culture of the early modern market was explicitly social, as relations between buyers and sellers were governed by a normative and regulatory morality in which credit was based upon trust and reputation rather than amoral self-interest.[41] Forms of cooperation between merchants such as guilds would have generated the bargaining power necessary to stimulate governments to protect merchants and provide impartial justice in situations where such private ordering mechanisms would not suffice.[42] However, Emily Kadens has shown how ex-post legal enforcement was essential to help constrain low-level cheating among the customers of grocers in early modern London.[43] Furthermore, Amsterdam never had an overarching local merchant guild, and repeatedly refused demands for special privileges from foreign merchant colonies.[44]

Oscar Gelderblom has proposed a solution to this problem by focusing on intercity competition as a driving force of institutional change. According to Gelderblom, "the very problem of Europe's

[38] North and Thomas, *The Rise of the Western World*. Later, however, he nuanced this position: North, *Institutions, Institutional Change*.

[39] Gelderblom, *Cities of Commerce*, 2. [40] Polanyi, *Great Transformation*.

[41] Thompson, "The Moral Economy of the English Crowd in the Eighteenth Century"; Muldrew, "Interpreting the Market"; Muldrew, *Economy of Obligation*; Fontaine, *The Moral Economy*. This can be linked to proponents of private ordering solutions such as, especially, Greif, *Institutions*; Avner Greif, Paul Milgrom, and Barry Weingast, "Coordination, Commitment, and Enforcement: The Case of the Merchant Guild," *Journal of Political Economy* 102, no. 4 (1994): 745–76.

[42] Greif, Milgrom, and Weingast, "Coordination, Commitment, and Enforcement."

[43] Emily Kadens, "Cheating Pays," *Columbia Law Review* 119 (2019): 528–89; Emily Kadens, "The Dark Side of Reputation," *Cardozo Law Review* 40 (2019): 1995–2027.

[44] Sheilagh C. Ogilvie, *Institutions and European Trade: Merchant Guilds, 1000–1800* (Cambridge University Press, 2011), 32–34.

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legal and political fragmentation also produced its solution, in the form of urban governments that tried to attract trade through the continuous adaptation of their legal, commercial, and financial institutions."[45] In the early modern period, local governments were able to provide and enforce the efficient open-access public-order institutions heralded by North as the foundation of economic growth just as well and actually even better than centralizing states.[46] As Prak and Van Zanden have emphasized, these also formed the locus of the Dutch "coordinated market economy," which long managed to restrain capitalist rent-seeking impulses through a powerful urban civil society.[47]

It is in their explanations for the proliferation of credit – enabling economic growth – that these debates on social and economic history are of great relevance for this book. While the adherents of NIE generally restrict their analysis to international commerce and "big finance," moral economy scholars tend to focus on poor and middle-class households. The study of insolvency allows us to integrate these strands of research into a unified perspective on the daily operation of the early capitalist economy, allowing us to further our understanding of Amsterdam's early modern efflorescence.

From Personal to Systemic Trust

The ability to obtain credit is strongly linked to reputation, as exemplified by its linguistic origins in the Latin word *credo*, which is closely connected to notions of "faith," "trust," and "authority."[48] At the end of the day, trust is essential for any type of transaction. This was just as true in the early modern period as it is today, for humble shopkeepers and their customers as well as for international merchants. As Peter Mathias states, "if access to credit was the first rule for success in business then creditworthiness was the means to this essential end." A businessman's respectability was created by others, who had to accord them the status of being worthy of trust. This form of credibility could not simply be asserted: it had to be built up

[45] Gelderblom, *Cities of Commerce*, 3. [46] Ibid. 123–25.
[47] Prak and Van Zanden, *Pioneers of Capitalism*, 207–9. See also Harold Joseph Berman, *Law and Revolution*, II: *The Impact of the Protestant Reformations on the Western Legal Tradition* (Cambridge: Harvard University Press, 2006), 348.
[48] Fontaine, *The Moral Economy*, 8–12.

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slowly by actions as well as words.[49] In reality, both reputation and more formal "classic" institutions are essential for the functioning of the economy. Good insolvency legislation, as I argue in this book, has the potential to support economic growth through both of these factors. On the one hand, it can provide an external, public form of security to stimulate individual transactions but, on the other hand, it also has the potential to restore part of a debtor's reputation that had previously been damaged by an insolvency through open, independent, and transparent legal procedures.

However, it is easier to describe than to explain these beneficial effects of well-functioning insolvency legislation for the economy at large. This is a problem that one often encounters in studies of institutions as agents of change in history, a problem that might partially be solved by moving beyond and above the institutional framework itself to analyze it from a greater level of abstraction. Sociological analysis, in particular systems theory, allows us to reflect on such relationships between individuals and society as a whole, as well as the functioning of the mechanisms behind institutions such as law or the economy, and how these fit together. The insights gained from such strictly intellectual endeavors must then be tested against empirical evidence obtained from archival research. This allows us to study institutions from an analytical position that has a far greater explanatory potential than one which would remain strictly constrained to the institutional framework itself. I will borrow some relevant concepts from Niklas Luhmann's functional sociology and incorporate these into my analytical framework. This does not mean that I embrace his entire worldview or will seek to test it in a comprehensive manner. That topic would merit another book in itself. Nevertheless, a brief treatment of some of his ideas helps us to reflect on the aforementioned economic and institutional theories that I do intend to engage with.

How, for instance, can we account for the role of trust in human relations? According to Luhmann's functional sociology, our world

[49] Peter Mathias, "Strategies for Reducing Risk by Entrepreneurs in the Early Modern Period," in *Entrepreneurs and Entrepreneurship in Early Modern Times: Merchants and Industrialists within the Orbit of the Dutch Staple Market*, ed. Clé Lesger and Leo Noordegraaf (The Hague: Stichting Hollandse Historische Reeks, 1995), 13–15.

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is overly complex.[50] It presents an individual actor with more possibilities than they could ever actualize, which is further complicated by the fundamental unpredictability of other human beings and the changeability of social relations over time. Trust bridges these gaps in time and knowledge, enabling the actor to reduce social complexity by limiting the amount of possible future events. This not only provides psychological relief, liberating the individual from what would otherwise turn into a paralyzing insecurity, but also points to its elementary significance for the functioning of complex social systems such as the economy.[51] It is only on the basis of trust that organized social groups and systems can expand the time horizon of their actions,[52] for instance through the appointment of a managing director (which requires a broad principal–agent trust due to unpredictable future events faced by this employee) or the function of money (relying on the widespread trust that it will also be accepted as legal tender in future).[53]

Luhmann's major contribution to trust research is the notion that *social systems* can also be the proper object of trust. In system trust, an individual actor "basically assumes that a system is functioning and places his trust in that function and not in … people."[54] In Luhmann's theory, social systems are a direct result of the increasing complexity of modern societies, which necessitates the differentiation of social relations into subsystems such as law, politics, or the economy to reduce its inherent chaos and contingency.[55] Law's function, in Luhmann's terms, is "to stabilize normative expectations over time and so avoid reliance on experience."[56] The progression from premodern to modern society would have been accompanied by a reversed prominence of interpersonal versus system trust. If "a social order becomes more

[50] For a very useful summary of Luhmann's ideas on trust and power, from which I have also benefited myself, see Frens Kroeger, "Unlocking the Treasure Trove: How Can Luhmann's Theory of Trust Enrich Trust Research?," *Journal of Trust Research* 9, no. 1 (2019): 110–24.

[51] Niklas Luhmann, *Trust and Power*, ed. Christian Morgner and Michael King (Cambridge: Polity Press, 2017), 5–9.

[52] Ibid. 128. [53] Ibid. 56 and 89.

[54] Ibid. 55; Kroeger, "Unlocking the Treasure Trove," 116.

[55] Reza Banakar and Max Travers, "Systems Theory," in *Law and Social Theory*, ed. Reza Banakar and Max Travers, 2nd ed. (Oxford: Hart Publishing, 2013), 55–56.

[56] Michael King, "The Radical Sociology of Niklas Luhmann," in *Law and Social Theory*, ed. Reza Banakar and Max Travers, 2nd ed. (Oxford: Hart Publishing, 2013), 66–67.

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complex and variable, … the very complexity of the social order creates a greater need for co-ordination and hence a need to determine the future – i.e., a need for trust."[57] Luhmann emphasizes the strong link between trust and self-confidence, which means that a significant breach of trust (such as the failure to repay one's debts) may endanger both the trustor's (creditor's) social image as well as their self-image: it calls into question their ability to make sense of the social world not just through instrumental (economic) but also by means of social (loss of face) embarrassment.[58] This points at the essentially reflexive nature of trust (and credit): trustors will always look to others for confirmation that their own position is sensible. Trust not only underlies social order, but individual trust is also embedded into and conditioned by the social. This group dynamic plays a significant role in the institutionalization of trust to a systemic level.[59] As source of increased stability and hence predictability, this systemic variant of trust, embedded in governmental institutions, is essential in allowing social systems to grow and increase in complexity over time. Today as much as in the early modern age, trust and power, or reputation and legal authorities, exist alongside each other and concurrently serve as functional complements to stabilize social systems.[60]

While Luhmann provides important indications as to the nature and relevance of system trust, he only gave some brief and unspecific comments on its genesis. The conditions under which trust and power impede or amplify one another deserve further study.[61] The same is true for many of the assumptions made by the NIE about the effects of law and legal institutions on economic growth.[62] The example of Amsterdam's early modern insolvency legislation and practices is well suited to take some tentative empirical steps in this direction. The introduction of the Desolate Boedelskamer in 1643 has the potential to serve as a natural experiment, allowing us to determine the effect of

[57] Luhmann, *Trust and Power*, 23–24 and ch. 7. [58] Ibid. 29, chs. 8 and 11.
[59] Ibid. 77. [60] Kroeger, "Unlocking the Treasure Trove," 120–21.
[61] Ibid. 116 and 121; Frens Kroeger, "The Development, Escalation and Collapse of System Trust: From the Financial Crisis to Society at Large," *European Management Journal* 33, no. 6 (2015): 431–37.
[62] Jan Dumolyn and Bart Lambert, "Cities of Commerce, Cities of Constraints: International Trade, Government Institutions and the Law of Commerce in Later Medieval Bruges and the Burgundian State," *TSEG / Low Countries Journal of Social and Economic History* 11, no. 4 (2014): 89–102.

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institutional innovations on the relations between creditors and debtors. This book therefore analyzes the interplay between legal institutions and social norms, systemic and personal trust, as mechanisms which provided essential securities for transactions and hence formed a foundation for economic growth.

Research Focus and Sources

This book will analyze the extent to which the introduction of the Desolate Boedelskamer in 1643 had an impact on Amsterdam's economy and society between the 1578 *Alteratie*, which replaced the city's Catholic government with a Protestant one, and 1700. How were insolvency and indebtedness looked upon in general, and in what ways did this influence the procedures and functioning of a legal institution such as the Desolate Boedelskamer? Who were the insolvents that were submitted to the commissioners' care? What were their social backgrounds, and how did this influence the strategies which they had at their disposal to influence the resolution of their financial and legal problems? And, finally, how should the treatment of insolvencies be viewed from the broader perspective of theories about the economic success of Amsterdam in this period? Studying insolvency helps to shed new light on the intriguing debates about Amsterdam's rise, since it allows us to understand how this society coped with failure.

Even though it can hardly be argued that the city of Amsterdam is exemplary or typical for the general situation in the seventeenth-century Dutch Republic, the fact that it pioneered many legal and economic institutional innovations that were subsequently adopted by other cities justifies the choice to make it the focus of this in-depth analysis of early modern insolvency legislation and practices. The mental world that was occupied by Amsterdam's inhabitants and administrators can easily be extrapolated to the entire province of Holland, as well as other (urbanized) parts of the early modern Dutch Republic.[63] Through a broad archival analysis of the social

[63] For the broader dissemination of innovations such as the majority composition, see Chapter 7 below, and especially Maurits den Hollander, "Failliet in de Republiek. Lokale ordonnanties over de omgang met desolate boedels, circa 1643–1713," *Pro Memorie* 24, no. 2 (2022): 190–217.

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and economic context in which insolvency legislation was created and applied in seventeenth-century Amsterdam, I will highlight the ways in which innovative governance and legal practices interacted with moral thought in order to produce a liberal, open-access insolvency regime. This book combines an analysis of relevant insolvency ordinances, urban legislation, and legal scholarship with a practical reconstruction of the events and procedures surrounding individual insolvencies.

The primary source material that was used for this book was predominantly found in the Municipal Archives of Amsterdam (GAS) and the National Archives in The Hague (NL-HaNA). These archives not only allow us to reconstruct the daily work and procedures of the Amsterdam Desolate Boedelskamer, but also provide a glimpse of the insolvents' personal stories. The Amsterdam archives constitute the core of my research, and provide the foundation for an in-depth analysis of the ways in which insolvency was dealt with in historical practice, as a mirror of official municipal and academic legal traditions.[64]

The archives of the Desolate Boedelskamer have not been preserved in their entirety. A combination of natural disasters and equally disastrous archival policies in the early modern period resulted in the destruction of part of this valuable collection. On Sunday July 7, 1652, less than a decade after the court had been founded, the old medieval city hall of Amsterdam caught fire in the middle of the night. According to Jan Wagenaar, "on this occasion, many old registers and [archival] pieces were burned."[65] At the same time, thanks to heroic acts of a number of brave citizens many other documents were rescued from the inferno:

> Eenige ijveraars voor Stads dienst streefden, midden door de vlammen, naar de Secreterije, en keerden, met armen vol boeken en papieren, te rug. Een was 'er, die naar de Weeskamer liep, toen zij in vollen brand stond, en de boeken en registers, welken hij magtig worden kon, ten vensteren uit, op

[64] The urban ordinances of 1643 and 1659 have been published in Gerard Rooseboom (ed.), *Recueil van verscheyde keuren, en costumen; midtsgaders maniere van procederen binnen de stadt Amsterdam*, 2nd ed. (Amsterdam: Jan Hendricks, 1656), 304–9; Hermanus Noordkerk (ed.), *Handvesten; ofte privilegien ende octroyen: mitsgaders willekeuren, costuimen, ordonnantien en handelingen der stad Amstelredam*, 4 vols. (Amsterdam: Hendrik van Waesberge, Salomon en Petrus Schouten, 1748), II:687–90.

[65] Jan Wagenaar, *Amsterdam in zijne opkomst*, 4 vols. (Amsterdam: Isaak Tirion, 1765), II:583–84.

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straat smeet, daar zij waargenomen en gebergd werden: waarna hij zig, bij een touw, langs den tooren, nederliet, alzo de trap, die hij opgekomen was, reeds was afgebrand.

[A number of brave zealots managed to reach the Secretariat through the flames, returning with their arms full of books and paperwork. One of them even entered the Orphan Chamber, which was entirely ablaze, throwing all books and registers on which he could lay his hands out of a window on the street, from where they could be salvaged. Thereafter, he had to escape using a rope lowered from the tower, as the stairway by which he had entered had already burned down.]

Even though it shows some burn-marks, it is probably thanks to these brave citizens that the oldest register of the appointment of curators, which even predates the court itself, has survived to the present date.[66]

Rather more reprehensible is the fact that the burgomasters and the court's commissioners themselves sold off and destroyed parts of this archival collection at various points in its history. Following complaints about the "paper flood" which filled the "book room" and other storage areas, in 1720 it was decided to sell off much of the archives that had been built up from the establishment of the Desolate Boedelskamer up to and including 1684 as wastepaper. For fl. 2,200, Leiden citizen Reinout Gartner bought the whole collection *voetstoots en bij de hoop* or "as a heap, not measured and just as it is in whatever condition." In 1756, archives from 1684–1714 that were stored in the court's warehouse and on the attic of the (new) city hall were sorted and largely disposed of. This time, the wastepaper trader Maarten Neeltjes from Krommenie obtained ninety-seven bales of archival material for the pitiful amount of fl. 517. In 1773 the *opruiming* of documents from 1714–1735 followed, the archives being destroyed in a paper mill in the presence of one of the court's servants.[67] Lastly, between 1805 and 1808 the Amsterdam city hall was rededicated as a royal palace under the Kingdom of Holland. These events, as well as the connected overly swift evacuation of certain warehouses that were used as storerooms by the municipal administration at the time, reportedly resulted in a *verscheurcommissie* or

[66] GAS, 5072: DB, inv. nr. 469.

[67] GAS, 5072: DB, inv. nr. 59, ff. 37–38, 102v–103r, 106, and 160. See also Eric Ketelaar, *Archiving People: A Social History of Dutch Archives* (The Hague: Stichting Archiefpublicaties, 2020), 159–60.

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"tearing-up committee" that led to a final destruction of many early modern documents.[68] Whereas the selection criteria that were used in these clean-up operations are unclear, it is likely that many documents and registers containing information about individual insolvency cases similar to those that have survived from the late seventeenth and eighteenth centuries must originally also have existed for the first decades of the court's existence.

Fortunately, however, enough of the fascinating material created and archived by the Desolate Boedelskamer was preserved to allow a reconstruction of its functioning and development over time, as well as the impact of these developments on the legal treatment of financial demise in seventeenth-century Amsterdam. I will briefly describe the main series of records that I used in order to clarify their function, contents, and form.

The *Notulen* or minutes are one of the oldest series of registers, created from the moment the annually elected commissioners started their work in November 1643. During their meetings, structured with headings consisting of the relevant insolvent's name, notes about the commissioners' decisions would be included on a case-by-case basis. The minutes allow us to find information about curators' acts for which they needed the commissioners' permission, orders to execute an insolvent estate, decisions on requests for *cessie van goede* (a voluntary surrender of the insolvent estate) or *seureté de corps* (a protective short-term moratorium), or information about the conclusion of *akkoorden* (compositions). This series of codices, therefore, provides valuable insights into individual cases as well as the commissioners' daily work from the foundation of the Desolate Boedelskamer onwards.[69]

The series of *Resolutiën* or Books of Resolutions starts ten years later, in 1654. For the entire seventeenth century, one codex sufficed to copy and store decisions by the commissioners as well as, sometimes, burgomasters and aldermen, related to procedures, work instructions, staff, salaries, and other organizational matters pertaining to

[68] W. F. H. Oldewelt, "Twee eeuwen Amsterdamse faillissementen en het verloop van de conjunctuur (1636 tot 1838)," *Tijdschrift voor Geschiedenis* 75, no. 4 (1962): 421–35, 425–26.

[69] GAS, 5072: DB, inv. nrs. 1–30.

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the Desolate Boedelskamer. Together with the official ordinances, this register is crucial to arrive at a deeper understanding of Amsterdam's increasingly sophisticated way of managing insolvencies over time.[70]

The registers of *Staten der Cessionanten* have unfortunately only survived from 1689 onwards. These collections of insolvents' applications for *cessie van goede* (from the Latin *cessio bonorum*), that were numbered and bundled into a codex on an annual basis, provide deep insight into the identity and background of individual insolvents. *Cessie* granted insolvents protection from debt imprisonment on the condition that they would hand over their entire estate (except for some basic life necessities) to be executed for the benefit of the creditors. Regular inventories of an estate (*boedel-inventarissen*) only include movable goods, while these *staten van goed* provide a much more complete image. Besides listing all outstanding debts, claims, and possessions, the documents usually also include stories about the events leading up to the insolvency and subsequent *cessie*-application.[71]

The *akkoorden* between insolvents and their creditors have, unfortunately, not been bundled and preserved in their entirety. Hundreds of these compositions from the seventeenth century can be found in the archive's category titled *Restant* or "leftovers." While this collection is incomplete, a comparison with the cases and accords mentioned in specific years of the minutes suggests that about a third to half of the accords in every year are still accessible, either as originals or contemporary copies.[72]

These main source series were supplemented by material from the inventories of insolvent estates and other supporting registers, as well as useful references found in a number of notarial protocols and other archives produced by the Amsterdam local authorities in this period.

The core of my archival analysis consists of the creation of two datasets containing, respectively, series of accords between insolvents and their creditors, and applicants for *cessie van goede*. The accords were selected randomly from the exemplars preserved in the Amsterdam archives. I have selected fifteen accords for each of the first two decades of the court's functioning, and ten for each subsequent

[70] GAS, 5072: DB, inv. nr. 58. [71] GAS, 5072: DB, inv. nrs. 689–702.
[72] GAS, 5072: DB, inv. nrs. 1227–2879.

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decade. This allows us to study the effect of the 1659 ordinance on the structure and contents of these individually arbitrated agreements. Because of the large consistencies within the sampled cases, as well as their random selection, it is likely that this collection allows us to form a representative view on the practices surrounding the accord in this period. This is supported by a comparison of quantitative information such as debt values in my sample of accords with an overview compiled by the Amsterdam Municipal Archives in 1892, containing summarized data on all 598 surviving accords from the period before 1700.[73] More information on the specific contents of these two datasets as well as the way in which I structured the data can be found in the Appendix.

Unfortunately, unlike the accords, the Amsterdam registers of applications for *cessie* have only been preserved from 1689 onwards. However, the fact that the reconstructed procedure seems to be coherent with the court's oldest ordinances, supplemented by evidence found in the archives of the High Court of Holland (*Hoge Raad*) in The Hague, allows us to regard this collection as representative for at least the second half of the seventeenth century. Machiel Bosman has examined the Amsterdam applications for *cessie* that were sent to the High Court between 1654 and 1659, concluding that "in Rembrandt's time more than half of the Amsterdam insolvents requested a letter of *cessie*," but that studies of this phenomenon are generally lacking.[74] This book will seek to partially fill this lacuna by studying a great number of these cases from the 1690s. The first surviving codex of Amsterdam applications for *cessie van goede* covers the complete year 1690, as well as parts of 1689 and 1691; the second and third registers I selected are restricted to the years 1695 and 1700.[75]

It proved possible to extract 259 unique cases from the Amsterdam sources, which constitute a sufficient sample to draw conclusions about the sorts of people that made use of the benefice of *cessie* and

[73] GAS, 5072: DB, inv. nr. 145.

[74] Machiel Bosman, *Rembrandts plan. De ware geschiedenis van zijn faillissement* (Amsterdam: Atheneum – Polak & Van Gennep, 2019), 106 and 197–198 (n. 6).

[75] GAS, 5072: DB, inv. nrs. 689, 697, and 702. The register with inv. nr. 692, consisting of the originals of the applications of the year 1690 found as "neat copies" in register "A" (inv. nr. 689), was used to complement this data.

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the reasons why they were forced to do so.[76] Almost every applicant for the year 1700 could also be found back in the *registeren van curatele*, the register of curators. This indicates that the sample for the given years is more-or-less complete, as every insolvency treated by the Desolate Boedelskamer officially started with the appointment of a curator.[77] From an analysis of the value of debts of each insolvent estate, it appears that in every examined year the population showed a consistent build-up, supporting the representativeness of the sample (see Figure I.1).

Even though privileged debtors such as noblemen or widows would have possessed the right to have their insolvency treated directly by the Court of Holland (*Hof van Holland*) rather than (at first instance) by local aldermen, in practice this court does not seem to have played an important function in the resolution of insolvencies in early modern Amsterdam.[78] Even though the Court of Holland was the institution responsible for treating *cessie* applications in Holland between 1573, when its provincial government ceased to recognize the jurisdiction of the Great Council of Malines, and 1582, when the High Court of Holland was founded and took over this procedural function, this does not seem to have left many traces in the *Hof*'s archives, either.[79] A quick survey of the indices on the website of the National Archives in The Hague did not provide any meaningful results for seventeenth-century Amsterdam, even though the surviving process files or *proceszakken* do contain a small number of *cessie* cases in which an appeal was filed against the judgment of a local court.[80] A sample of Amsterdam *cessie* cases from the year 1700 has been traced in the archives of the High Court (*Hoge Raad van Holland*), in order to arrive at a complete

[76] The term "benefice" might potentially cause confusion here, due to its predominant use for ecclesiastical offices in the literature. In this book, it is used as a translation of *beneficie*, which was the term used by contemporaries to describe legal remedies such as *cessie van goede* that were granted by the sovereign.

[77] GAS, 5072: DB, inv. nrs. 480 and 481.

[78] Maria-Charlotte le Bailly, *Procesgids Hof van Holland, Zeeland en West-Friesland: de hoofdlijnen van het procederen in civiele zaken voor het Hof van Holland, Zeeland en West-Friesland zowel in eerste instantie als in hoger beroep* (Hilversum: Verloren, 2008), 48–52.

[79] Eric Ketelaar, "De procesgang bij het Hof van Holland, Zeeland en West-Friesland," in *Verslag en bijdragen Rijks Archiefschool 1969–1970* (Utrecht: Rijksarchiefschool, 1971), 56–58.

[80] NL-HaNA, www.nationaalarchief.nl/onderzoeken/archief/3.03.01.01.

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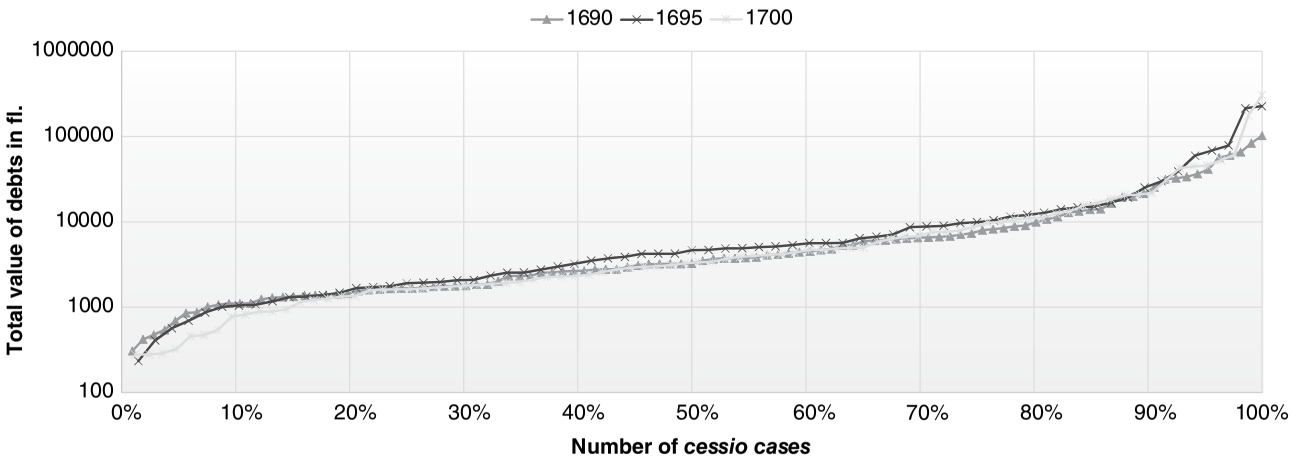


FIGURE 1.1 Value of debts per insolvent estate of applicants for *cessie van goede* in 1690, 1695, and 1700 on a logarithmic scale

understanding of the way in which they were processed.[81] It is important to note that these applications to the High Court contain far less information about individual insolvencies than the complete files that have been preserved in the Amsterdam archives from the 1690s onwards. As will be elaborated upon in Chapter 6, they lack the personal stories and detailed information about debts and possessions that make these applications such a valuable historical source.

It is important to note that these applicants for *cessie* constituted the vast majority of Amsterdam insolvents. While Oldewelt has created statistics on the annual number of insolvencies in Amsterdam in the early modern period, these data appear to be partially corrupted.[82] His main source for this period is the registers for *curatele*. However, for the year 1700, I found the actual number to be about a third lower than Oldewelt's count. This new result quite closely corresponds to the number of *cessie* applicants for that year, supplemented by some cases in which an accord could be reached with the creditors. We can draw two important conclusions from this observation. First, one should hesitate to take Oldewelt's data at face value, even though his article might still be useful in its interpretation of long-term economic trends. Second, it is important to realize that the majority of Amsterdam insolvents in the later seventeenth century resolved their financial problems through the *cessie* procedure rather than through an accord, even though the latter received more attention in the older literature. These source collections allow us to arrive at important and meaningful conclusions about the functioning of insolvency legislation as part of its broader social and economic context in seventeenth-century Amsterdam.

[81] NL-HaNA, Hoge Raad Holland en Zeeland, 3.03.02, inv. nr. 104.
[82] Oldewelt, "Twee eeuwen."

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