Bankruptcy: from moral order to economic efficiency.

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Abstract: The evolutions of the bankruptcy law seek to reach many aims: economic safety, firms' creation and expansion in a capitalist economy, protection of the interests of the agents involved in transactions that goes far beyond creditors and debtors, and prolongation of the activity of viable firms. This contribution examines the French insolvency law and its transformations since the 19th century from a historical and concrete point of view which makes it possible to put in perspective the modifications and the uses of the legal rules in an economic and institutional context. The underlying assumptions and the main results contradict the conclusions of the Law and Economics theory which insist on the weak economic efficiency and the low ability to protect creditors' interest of the bankruptcy law. We show that far from being only one means of selection thanks to which the market could be cleared of its failing agents, the bankruptcy law opens a non commercial space of resolution of the failures of market which, by releasing the actors of their former constraints, authorizes them to reinstate the business world.

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Even if it was economically feasible to frack in the UK, millions of town and countryside dwellers have already seen straight through the nonsensical arguments that the industry will be good for the environment and climate, and public health risks can be regulated. As we don’t have enough waste treatment plants in the UK that can actually clean up the contaminated water left over, will the industry shortly propose to dump it in the North Sea? Nuclear power and fossil fuels have no economic or moral right to a long-term place in UK energy policy.

Editor's Note. Peter Strachan (@ProfStrachan) is Professor of Energy Policy, Robert Gordon University.