



CHARLES DICKENS AND THE SOVEREIGN DEBT CRISIS

John V. Orth

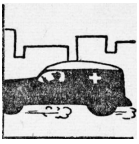
IN JANUARY 1842, when Charles Dickens departed for his first American tour, he was not yet thirty years old but already famous on both sides of the Atlantic. Embarking with his wife Catherine and her maid Anne on the *Britannia*, the Cunard Line's first paddle-steamer, he expected a pleasant voyage with all the modern conveniences. At journey's end, he thought, lay a model republic – and relief from his pressing financial difficulties. Sales of his serialized novel, *Barnaby Rudge*, completed only weeks before, had been disappointing, and the novelist was in debt to his publishers for £3,000.¹ Refusing to recognize international copyright, the United States then – like some modern developing nations now – simply appropriated foreigners' intellectual property. Pirated editions of Dickens' novels brought pleasure to their readers and profits to their publishers, but nothing to their author, and the novelist was optimistic that he could make the Americans see the justice of his claim for compensation.

As it turned out, the Atlantic crossing was one of the worst the *Britannia's* officers had ever experienced,² making the Dickens party

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¹ Les Standiford, *The Man Who Invented Christmas: How Charles Dickens's Christmas Carol Rescued his Career and Revived our Holiday Spirits* 39 (2008).

² Claire Tomalin, *Charles Dickens: A Life* 128 (2011).



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violently ill, but giving the novelist the chance to pen a memorable description of a storm at sea. Arrived in America, Dickens was disappointed to find, not his idealized republic, but instead a nation of loud, ignorant, overbearing – and apparently constantly expectorating – Americans. Despite a warm reception from admiring crowds, his plea for copyright protection fell on deaf ears, embittering him – and, oddly, bringing charges in the press of ingratitude and greed.³

Just as the young Charles Dickens had high hopes for America, so English investors had visions of lucrative returns on their American investments. Like the novelist, they too were to be bitterly disappointed. A financial panic in 1837 led to America's "First Great Depression," not yet over at the time of Dickens' visit.⁴ The Bank of England, like some modern central banks, had only made matters worse by abrupt reversals of policy – "mistakes of the gravest magnitude," according to Walter Bagehot.⁵ Fortunes were lost on all classes of American debts. The career of the brilliant entrepreneur Charles Morrison, the "Napoleon of shopkeepers," was almost cut short by bank failures and wild fluctuations in the cotton market.⁶ But it was default on American state debts – or, as English investors called them, "United States' securities" – that rankled most. The vicissitudes of commerce were familiar to the Victorians, but sovereigns were supposed to pay what they owed.

When Dickens arrived in America, eight states were "routinely missing interest payments, attempting to sidestep creditors, or flatly repudiating their obligations."⁷ Dickens himself had not lost money in the crash – it was to be years before he had enough to be able to invest⁸ – but he sympathized with his fellow Englishmen, who felt they had been cheated by the Americans. In a series of now obscure

³ Id. 132.

⁴ See Alasdair Roberts, *America's First Great Depression: Economic Crisis and Political Disorder After the Panic of 1837*, at 8 (2012).

⁵ Walter Bagehot, *Lombard Street: A Description of the Money Market* 178 (1873).

⁶ Caroline Dakers, *A Genius for Money: Business, Art and the Morrisons* 125-45 (2011).

⁷ Roberts, *America's First Great Depression* 65.

⁸ Tomalin, *Dickens* 200.



references in his travel book, *American Notes* (published on his return to England later in 1842), his novel, *Martin Chuzzlewit* (serialized throughout 1843), and the famous *Christmas Carol* (December 1843), Dickens berated Americans for their failure to honor their obligations.

From his first-hand observation of the American character, Dickens detected a “love of ‘smart’ dealing: which,” he said, “gilds over many a swindle and gross breach of trust; many a defalcation, public and private; and enables many a knave to hold his head up with the best, who well deserves a halter.”⁹ Forecasting the consequences of what modern economists call “reputational damage,” Dickens was confident what the effect would be – “to impair the public credit and to cripple the public resources . . . , discouraging foreign investment.”¹⁰ (Today he would have said “foreign *direct* investment,” or FDI for short.) And, indeed, the repudiators were locked out of the international financial markets.¹¹

Dickens had seen proof of such “smart dealing” during his steamboat trips on the Mississippi. “I recollect, on both occasions of our passing that ill-fated Cairo [Illinois] . . . , remarking on the bad effects such gross deceits must have when they exploded, in generating a want of confidence abroad.”¹² Located at the junction of the Ohio and Mississippi Rivers, the Cairo Dickens saw was “a dismal swamp, on which the half-built houses rot away: cleared here and there for the space of a few yards; and teeming, then, with rank unwholesome vegetation, in whose baleful shade the wretched wanderers who are tempted hither, droop, and die, and lay their bones.”¹³

By contrast, what English investors had been shown by Cairo’s American promoter were color lithographs depicting a bustling me-

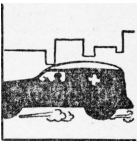
⁹ *American Notes* 245 (New Oxford Illustrated Dickens 1957).

¹⁰ Id. 245-46.

¹¹ Roberts, *America’s First Great Depression* 74.

¹² *American Notes* 246. The proper pronunciation of the Illinois town is KAY-roh.

¹³ Id. 171. On his return trip, Dickens had another chance to observe Cairo at closer range. Id. 187.



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tropolis of banks, factories, hotels, churches, and public buildings.¹⁴ Bonds were floated and sold to trusting investors, who failed to do their “due diligence.” (One Englishman who did confirmed Dickens’ observations: “The sight of Cairo would almost break the heart of any man who was either deeply interested himself or who induced his friends to invest in the concern.”¹⁵) The inevitable default cost the bondholders millions and bankrupted the British underwriter.¹⁶ Not involved in the Cairo swindle, the state of Illinois had its own problems with an overly ambitious canal project that caused it to default on its sovereign debt shortly before the novelist and his party left England.¹⁷

Dickens recycled his American observations in *Martin Chuzzlewit*, the novel he began serializing in 1843. The young Martin, an architect, emigrated to America where he was shown maps of the new settlement of Eden, a thinly fictionalized Cairo. His only concern was that there would be little for an architect to do in such an apparently built-up place. “Well! it ain’t all built,” assured the sales agent. “Not quite.”¹⁸ So the hopeful emigrant invested his meager savings and those of his loyal manservant Mark Tapley in Eden real estate. The two drooped and almost died there, like the wretched wanderers Dickens had observed at Cairo, before the author (and his readers) finally tired of the dismal American scenes, and Dickens hastily contrived an improbable escape.

On the steamboat out of Eden, Martin dined with the Hon. Elijah Pogram, Member of Congress. Noticing Martin’s disgust at the table manners of one of the tobacco-chewers, the Congressman defended the free spirit of the Americans, leading Martin to moralize: “From disregarding small obligations they come in regular course to disregard great ones; and so refuse to pay their debts.”¹⁹ “You ob-

¹⁴ Roberts, *America’s First Great Depression* 16 (reprinting one of the lithographs).

¹⁵ Dakers, *A Genius for Money* 162-63.

¹⁶ Roberts, *America’s First Great Depression* 15.

¹⁷ Id. 59-60.

¹⁸ *Martin Chuzzlewit* 355 (New Oxford Illustrated Dickens 1951).

¹⁹ Id. 537.



serve the settled opposition to our Institutions which pervades the British mind!” commented Pogrom. “What an extraordinary people you are!” responded Martin. “Why, I shall hear next that Dishonor and Fraud are among the Institutions of the great republic!” At which the Congressman exclaimed: “He’s alludin’ to Repudiation now!” “Oh! You may make anything an Institution if you like,” said Martin, laughing, “and I confess you had me there, for you certainly have made that one.”²⁰

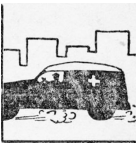
The victims of repudiation might have taken grim pleasure from the novel’s final image of America. Departing for England, Mark Tapley, otherwise the tireless (and occasionally tiresome) apostle of “jollity,” gave his impression of the American Eagle: “like a Bat, for its short-sightedness; like a Bantam, for its bragging; like a Magpie, for its honesty; like a Peacock, for its vanity; like a Ostrich, for its putting its head in the mud, and thinking nobody sees it” “And,” Martin tactfully interrupted, “like a Phoenix, for its power of springing from the ashes of its faults and vices, and soaring anew into the sky!”²¹

Even before the last installments of *Martin Chuzzlewit* were completed, Dickens wrote his famous *Christmas Carol*, in which the grasping Ebenezer Scrooge received a series of visitors from the spirit world. Disturbed by their ghostly comings and goings, the miser began to fear that he had slept round the clock and that his time-sensitive securities had expired. When he realized that it was still the night of the same day, he heaved a great sigh of relief “because ‘three days after sight of this First of Exchange pay to Mr. Ebenezer Scrooge or his order,’ and so forth, would have become” worthless – or, what he actually said, “would have become a mere United States’ security.”²²

²⁰ Id. 535.

²¹ Id. 547.

²² *A Christmas Carol* 23 (New Oxford Illustrated Dickens 1954). At the time, bills of exchange were “prepared in three sets as the first, second, and third exchange, so that if one was lost, the others would be available, and once one [was] accepted the others [became] worthless.” *The Annotated Christmas Carol* 84 (Michael Patrick Hearn ed. 1976).



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What Scrooge (and many Englishmen with him) had failed to understand was that American state debts were not federal obligations. True United States' securities no longer existed after 1835, when the federal government paid off the first national debt in full. Just as the introduction of the euro in 1999 led international investors to believe that the shared currency made the debts of the eurozone's peripheral economies as safe as German bunds, so English investors a hundred and sixty years earlier had misunderstood the risks with American state debts. There are no eurobonds (yet), but if there were, a modern equivalent to Scrooge's metaphor would be dismissing Greek bonds as "a mere European security," likening junk to what would be (if it existed) a triple-A obligation.

And just as Germany today is pressured to transfer funds to insolvent eurozone members, so the United States then was pressured to assume American state debts. Creditors with long memories – and most creditors have very long memories – knew that Alexander Hamilton had arranged in 1790 for the federal government to take over the states' Revolutionary War debts. But in the 1840s Congress steadfastly resisted pleas from the states (and their investors) for a federal "bailout," establishing a precedent that has held to this day.²³ Such resolve was not without its consequences – the effect modern economists call "contagion." Even as Dickens was embarking on the *Britannia*, the United States government was denied the possibility of a foreign loan, despite its excellent credit history (and ample tariff revenues). "Not a dollar," Baron Rothschild told the Treasury's agent.²⁴ Distrust affected solvent as well as insolvent states. The *Times* of London reported that "the whole United States are looked upon as equally tarnished."²⁵

Eventually most of the defaulting states resumed payment, al-

²³ See Michael S. Greve, "Our Federalism is not Europe's. It's becoming Argentina's," 7 *Duke J. Const. L. & Pub. Pol'y* 17 (2012).

²⁴ Letter from Duff Green to John C. Calhoun (Jan. 24, 1842), reprinted in 2 *American Historical Ass'n Report* 841, 842 (1899); see also *Report of the Commissioner Sent to Europe to Negotiate a Loan*, H.R. Doc. No. 197, 27th Cong., 3d Sess. (1843).

²⁵ Roberts, *America's First Great Depression* 66.



though the bondholders had to take a “haircut,” modern parlance for a loss of principal and/or interest.²⁶ For the struggling states, it meant austerity budgets and higher taxes²⁷ – not unlike those imposed on Southern European governments today. To prevent reckless financing in the future, many American states amended their constitutions to place limits on borrowing and spending²⁸ – like the present European project to add balanced-budget amendments to all the eurozone constitutions. America’s First Great Depression, like the current European financial crisis, led to a loss of confidence in elected politicians and an attempt to use law (and therefore courts) to restrain popular assemblies.

But perhaps Dickens’ American hosts should have the last word. Before the novelist returned to England – this time on an old-fashioned sailing ship, not a steam packet²⁹ – he was assured that repudiation had been “a very smart scheme” by which “a deal of money had been made.” But “its smartest feature,” he was told, “was that they forgot these things abroad in a very short time, and speculated again, as freely as ever.”³⁰ Charles Dickens died in 1870, so he never witnessed the next demonstration of “smart dealing,” when American states after the Civil War again sold bonds to English investors – and again repudiated them.³¹



²⁶ See William B. English, “Understanding the Costs of Sovereign Default: American State Debts in the 1840s,” 86 *Am. Econ. Rev.* 259, 265 (Table 3) (1996).

²⁷ Roberts, *America’s First Great Depression* 73.

²⁸ *Id.* 81-83.

²⁹ Tomalin, *Charles Dickens* 138.

³⁰ *American Notes* 246.

³¹ See John V. Orth, *The Judicial Power of the United States: The Eleventh Amendment in American History* 58-89 (1987). See also John V. Orth, “State Debts and Federal Jurisdiction,” 7 *Duke J. Const. L. & Pub. Pol’y* 1 (2012).