

WHITE-COLLAR CRIME IN MODERN ENGLAND

Financial fraud and business morality, 1845–1929

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INTRODUCTION

White-collar crime and the criminal "upperworld"

Fraud has been characterized as the growth industry of our times.¹ After all, one can scarcely open a newspaper these days without reading about some new financial scandal on Wall Street or in the City of London. The recent collapse of the Bank of Credit and Commerce International, the break-up of the late Robert Maxwell's media empire and the continuing saga of the American Savings and Loan crisis have all given rise to numerous charges of fraud. This has been the era of Ivan Boesky, the Wall Street financier who in his heyday proclaimed "greed is good!" though was sentenced to three years' imprisonment for insider trading in 1987. Boesky's downfall was followed shortly by the indictment and trial in England of Guinness Chairman Ernest Saunders for the secret purchase of his company's own shares and in America of "junk bond" king Michael Milken for fraudulent trading. In September 1990 Saunders and three other Guinness board members were found guilty of numerous breaches of commercial law and received prison sentences ranging from twelve months to five years. In December Milken was sentenced to ten years for securities fraud.

In these days of money laundering through Swiss bank accounts and of dummy corporations registered in Panama or Liechtenstein, we are apt to imagine that white-collar crime is a recent phenomenon – the product of Reagan's America or Thatcher's Britain. The real origins of white-collar crime, however, lie almost two hundred years in the past, in the tremendous financial growth which accompanied the British Industrial Revolution.

The Industrial Revolution called into being a complex economy increasingly dependent on finance and investment. This new economy was characterized by a vast banking network, a burgeoning commercial nexus of insurance, stocks and credit, and an

increasingly complicated legal system. These phenomena as well as the concomitant increase of lawyers, brokers and financiers greatly expanded the potential for white-collar crime.

White-collar crime is a topic of great significance for British history. This type of crime, especially business fraud, embezzlement and financial chicanery of various kinds, has affected large amounts of property and threatened the savings or even ruined the lives of many thousands of individual investors. To take but one example, the collapse in 1892 of the Liberator Building Society, brought on by the malfeasance of its directors, consumed over a million pounds, the loss of which was borne by thousands of small investors many of whom were reduced to penury. Frauds of this sort permeated the Victorian consciousness, causing many to question the very integrity of the business world.

In 1860, Charles Dickens recorded a series of bizarre coincidences concerning financial fraud. It seems that William Robson, a City clerk who had certified the Great Northern Railway's deed of settlement, went on to commit frauds upon the Crystal Palace Company to the extent of £30,000. The Railway that Robson had symbolically launched was later defrauded by its Registrar, Leopold Redpath, of a quarter of a million pounds. Redpath channeled his ill-gotten gains into the Union Bank of London, from which cashier W.G. Pullinger later embezzled as much money as Redpath had deposited – £250,000. By yet another coincidence, John Chapman, a director of the Union Bank and auditor of the Great Northern Railway, failed to detect Redpath's frauds at the railway, Pullinger's at the bank, or the frauds of yet another clerk who embezzled some £30,000 from Chapman's own firm.² Was all this merely a coincidence? Dickens thought not. To him these "very singular things in the City" were symptomatic of dishonesty which pervaded the financial community. Nor was Dickens alone in his pessimism. In 1866 the journal *Temple Bar* lamented: "Go where you will, in business parts, or meet who you like of business men, it is – and has been for the last three years – the same story and the same lament. Dishonesty, untruth, and what may, in plain English, be termed mercantile swindling within the limits of the law, exists on all sides and on every quarter."³ Thirty years later, at the century's end, an article in the *National Review* struck a similar chord:

In the domain of finance – which, whether local or cosmopolitan, is fast becoming the world's tyrant – the primeval "forest-burn rapacity" of the human species may be seen in full and almost unfettered operation . . . At any rate, as regards the fraternity of promoters, both individuals and corporate, their morals may be best described in the words of Gabriel Borkman, the financier in Ibsen's latest drama, as "the morals of the higher rascality." The sootiest sheep of the financial flock may hope to find absolution if he only sin on a large enough scale.⁴

The Victorians had few illusions regarding the world of finance. The stereotypical image of the virtuous and respectable Victorian businessman is almost wholly the creation of twentieth-century sentimentalists and conservative ideologues.⁵ The Victorians themselves were plagued by white-collar crime as no other people before or since.

The most significant aspect of the new financial structure and that most vulnerable to fraud, was the rise and proliferation of the joint-stock company, an organization formed through the issuance of capital shares to a number of investors. Purchasers of shares were joint owners of the business and entitled to a portion of the profits commensurate with their investment. The great advantage of joint-stock companies was that, unlike individually owned businesses or partnerships, there was virtually no limit to the amount of wealth they could draw upon. At the same time, companies provided an investment outlet for the growing national wealth created by industrialization. By the late Victorian period, middle and upper-class England truly had become a nation of shareholders. As a measure of the public's passion for company investment, Sir John Clapham recorded that by 1914 the seven largest industrial companies alone had an aggregate of almost 400,000 shareholders. In addition, by 1927, there were some 300,000 distinct bank shareholdings and 900,000 railway shareholdings. Total joint-stock assets represented hundreds of millions of pounds.⁶

Company organization transformed the opportunities for financial dishonesty. The rising scale of organization increased the distance between the nominal owners, the shareholders and the active directors, and heightened the impersonality of this relationship. Thus the directors and their allies, the company floatation experts, were more open to the temptation to subject the investments of the faceless thousands to a wide variety of manipulations.

Discussions of business frauds filled the newspapers and journals of Victorian and Edwardian England. There were rogues enough among company directors to attract the attention of novelists like Dickens and Trollope and dramatists like W.S. Gilbert and Granville Barker. Fraudulent company promoters such as Albert Grant, Ernest T. Hooley and Horatio Bottomley became notorious villains of the Victorian era. At lower levels of infamy, absconding bankers, dishonest stockbrokers and embezzling clerks had a place in economic demonology. These less celebrated criminals threatened not only the rich and comfortable but also the widow and orphan, the genteel poor and the small investor generally. As Harold Perkin writes in *Origins of Modern English Society*: "From the 'railway mania' of 1846-47 onwards the investing public was compulsorily educated in a whole new world and vocabulary of ingenious crime, which could only be perpetrated by business men, and by large, prominent, wealthy or at least credit-worthy business men at that."⁷

The term "white-collar crime" was first used by the sociologist Edwin Sutherland in the 1940s. Sutherland defined it "as a crime committed by a person of respectability and high social status in the course of his occupation."⁸ Thus, according to Sutherland, non-occupational crimes committed by members of polite society, such as murder or rape, would not be considered white-collar crimes. Likewise, work-related crimes such as larceny by domestic servants or the theft of building materials by construction workers cannot be categorized as white-collar crimes because they were carried out by lower-class persons. Typical white-collar crimes include acts as varied as embezzlement by bankers or trustees, graft among public officials, stock fraud, false advertising and falsified accounts. Since modern business and professional relationships are largely based on trust, white-collar crime can be further defined as breaches of trust within business and professional communities or between those communities and the general public. Trust is that evanescent quality without which the operations of modern business would be impossible. Trust enables people to turn over their hard-earned savings to banks or stockbrokers rather than burying it in basements or stuffing it in mattresses. Trust enables the directors of large corporations to rely on the honesty of their employees rather than tallying every penny themselves.⁹ By widening our definition of white-collar crime to include breaches of trust, we

therefore include behavior widely held to be unethical and immoral as well as that which violates the letter of the law.

While white-collar occupations encompass a wide range of financial, mercantile and professional activities, this study will concentrate on the world of finance and big business. Commercial and mercantile frauds such as false weights and measures, the adulteration of foodstuffs, false advertising and trademark, patent and copyright infringements are not germane to this study, though commercial abuses of credit and false accountancy are.¹⁰ Professional malfeasance by groups such as doctors and lawyers is not included, but misdeeds by those professionals intimately connected with finance, such as accountants and stockbrokers, will be studied. Lastly, political corruption will be examined only where it intersects with the financial world, as in using privileged information to make profits on the Stock Exchange.¹¹ These other types of white-collar crime are deserving of separate treatment, and it is to be hoped that this study of financial fraud will stimulate such work.

The scope of our study extends from the first period of major company speculation, the "Railway Mania" of the mid-1840s down to the collapse of the international financial market in 1929 and places particular emphasis on the structures and institutions of investment, finance and credit, especially the joint-stock company and the unfolding possibilities it afforded for cheating the system. We will explore the characteristics of company organization, banking and the stock market which allowed or even encouraged disreputable activity. Popular attitudes toward white-collar crime will also be scrutinized along with the various ways in which society attempted to deal with such crime, including the state's endeavors to master the problem through Parliamentary legislation, as well as the development of business ethics, the professionalization of management and improvements in auditing. Lastly, this study will gauge the significance of white-collar crime by examining the effects of fraud on both individual investors and the economy as a whole.

This study of white-collar crime hopes to redress an imbalance in both business and criminal history. Although a number of economic historians have made notable contributions to our understanding of modern business, the history of the City is still virtually unexplored. Pioneering work by J.H. Clapham, B.C. Hunt and H.A. Shannon in the 1930s has been followed up only recently, and

most work in this area rarely touches upon questions of fraud and deceit.¹² One exception to this rule is Edward Smithies' *The Black Economy in England Since 1914*, though Smithies' work is principally devoted to the history of the black market, tax fraud, smuggling and pilfering – topics outside this study's scope.¹³ A number of fruitful contemporary researches into English business history have originated at the London School of Economics' Business History Unit. Most recently the Business History Unit has published a multi-volumed *Dictionary of Business Biography* which goes a long way toward increasing our knowledge of nineteenth and twentieth-century entrepreneurship and includes a number of entries on business frauds.¹⁴ Another new biographical collection, *Speculators and Patriots*, brings out some of the seamier aspects of modern finance as does Philip Cottrell's excellent study, *Industrial Finance, 1830–1914* and William P. Kennedy's provocative *Industrial Structures, Capital Markets and the Origins of British Economic Decline*.¹⁵ Although the best work in business history is increasingly sensitive to the criminal aspects of its subject matter, the story of white-collar crime has yet to be told.

In the realm of criminal history, the situation is even more lopsided. While there has been much interest in recent years in the history of crime and punishment, those who have written about criminality in industrial England have dwelt almost exclusively on lower-class crime and criminals – the so-called “criminal underworld.”¹⁶ The assumption that crime was the province of the masses has been embraced by historians of all stripes, from those who analyse the institutions of law and authority to those who study popular culture. Even historians of the left, rather than challenging the notion that crime was primarily a working-class phenomenon, have instead elevated it to a form of social protest or class conflict.¹⁷ Studies of the criminal underworld must be counterbalanced by an examination of “upperworld” crime.¹⁸

The historiography of white-collar crime is slight. The serious study of elite misconduct only began in 1949 with the publication of Edwin Sutherland's pathbreaking investigation of corporate fraud in America, *White Collar Crime*.¹⁹ Although Sutherland's work raised many questions for further research, little else was heard on the subject for the next twenty years. The seventies and eighties have witnessed an explosion of interest in white-collar crime, with dozens of books and scores of articles written on the topic.²⁰

Renewed scholarly interest in white-collar crime is almost certainly linked to a resurgence of financial fraud, as hardly a day goes by without new scandals coming to light concerning insider trading, money laundering or leveraged buy-outs. This current work, however, has been overwhelmingly sociological, criminological and contemporary. With the exception of a few popular accounts of sensational cases, white-collar crime has been ignored in the field of history.²¹

Rob Sindall's article on "Middle-Class Crime in Nineteenth-Century England" was thus a welcome addition to criminal history.²² Sindall studied the calendars of prisoners appearing before the Quarter Sessions and Assize Courts of London, Birmingham and Manchester during certain years in the last century and concluded that the middle class displayed a greater criminality than the lower classes and that middle-class crimes represented a much larger financial loss.²³ Sindall's conclusions may well be correct, but they are not generally substantiated by the official statistics on which he relies. For example, in comparing the criminal "takings" of the different classes, Sindall gives average receipts for fraud cases as follows:

	middle class	other social classes
Surrey 1855-65	£9	£1
Surrey 1878-88	£15	£6
Birmingham 1880-1900	£62	£7

These figures are most unimpressive in both absolute and comparative terms and fail to support Sindall's claim that the middle class misappropriated "far greater" amounts than the lower classes.²⁴ Sir Leon Radzinowicz has commented that Sindall's sampling of the criminal record was too small and that more work must be done.²⁵ Here Radzinowicz seems to have missed the point, for the problem with Sindall's study is not an inadequate data base, but the assumption that the history of white-collar crime can be written from criminal statistics.

Any study of crime must confront the problem of the official criminal record. Among criminologists the debate centers around the theory of "positivism."²⁶ Positivists view criminal statistics as both an accurate measure of what crimes are most prevalent in a given society and as a reasonable approximation of any particular

crime's extent. The counter-approach, usually labeled "interactionist," defines crime in terms of cultural relativity and views criminal statistics as highly subjective, unreliable data. Interactionists believe that the official criminal record primarily reflects bureaucratic determination to emphasize certain crimes and the police's resolve or ability to pursue such crimes.

Historians, while generally acknowledging the fragmentary nature of criminal statistics, exhibit great reluctance to abandon a statistical approach. Thus, positivist assumptions remain implicit in most criminal history. V.A.C. Gatrell has presented the most thorough defense of the English criminal record, arguing that national figures when taken over an expanded period will eliminate regional peculiarities and give a good picture of the pattern, though admittedly not the extent, of crime.²⁷ The counter-argument has been most forcefully made by J.J. Tobias in *Crime and Industrial Society*, where he concluded that "criminal statistics have little to tell us about crime and criminals in the nineteenth century."²⁸

Both sides in the argument have probably overstated their cases. The criminal record *does* tell us which crimes were most vigorously pursued and prosecuted by private citizens and officialdom in modern England.²⁹ Although this information cannot be equated absolutely with criminal reality, it does provide keen cultural insights and useful details about particular crimes. Yet with forms of delinquency about which society was ignorant, indifferent or impotent, the criminal record tells us very little indeed.

The hidden nature of most white-collar crime ensures its absence from official statistics. Unlike murder or robbery, which left tangible evidence, many white-collar crimes merely involved the manipulation of paper assets, while the impersonality of the financial structure increased the distance between criminal capitalists and their victims. The attentions of the police were largely directed against lower-class criminals who were clearly more visible and believed to pose an immediate threat to the social order. It was also far easier and less expensive to go to law against prostitutes and pickpockets than directors of large corporations. As Philip Jenkins put it, "to find one's way into the crime statistics virtually requires that an offender be relatively poor, probably inept and lacking in powerful friends."³⁰

Statistics for white-collar crime are generally comprised of the most trivial offenses. Sindall's figures for embezzlement in London and Birmingham are typical. In Surrey, for example, between 1855

and 1865 the criminal record reveals that £412 was embezzled by some sixty-four middle-class persons. This averages to only £6 8s per crime. Again in Surrey, statistics for the ten years between 1878 and 1888 show that only £1,153 was embezzled by the middle classes, while in Birmingham during the twenty year period 1880 to 1900 a mere £1,981 was appropriated by white-collar criminals – *as recorded in the official record*.³¹ These figures chiefly represent clerical embezzlement, but even this most petty of white-collar crimes is not accurately portrayed in the statistics since many cases would go unreported to avoid bad publicity.

A statistically insignificant number of powerful businessmen could steal millions. During the 1850s, for example, Leopold Redpath, Registrar of the Great Northern Railway, embezzled some £240,000 through fraudulently created stock and forged share transfers. When the banking house of Strahan, Paul and Bates collapsed in 1855, it was discovered that the directors had illegally disposed of some £100,000 of customers' assets with a further loss to shareholders and depositors of £650,000. Even these most notorious of white-collar criminals probably represent but a small fraction of all such malefactors. Many others simply escaped detection or prosecution. George Hudson, for example, misappropriated securities worth thousands of pounds from the railways he managed during the 1840s, but was never prosecuted. This study does not reject the criminal record, it merely regards it as the tip of the iceberg.

A non-statistical approach is more profitable in researching the history of white-collar crime. Other forms of evidence such as Parliamentary investigations of financial crises, the Board of Trade's annual reports on bankruptcy, and reports from shareholders' committees of investigation throw light upon financial misconduct that never saw the inside of a courtroom. Expert opinion as expounded in City journals like *The Economist*, the *Accountant* and the *Bankers' Magazine*, or in testimony before Select Committees on Company Law Reform points out both specific crimes and general types of criminal activity that have not found their way into official statistics.

Literary evidence is another fruitful source for criminal history, though one that is not without its drawbacks.³² J.A. Sharpe has discussed various pitfalls to a literary approach, including the fact that many popular writings about crime romanticized the criminal or else dealt only in stock figures and stereotypical situations.³³ Fictionalized accounts of crime were often more concerned with

exciting or titillating the reader than with espousing social realism. In *The Novelist and Mammon*, Norman Russell discounted the accuracy of literary depictions of Victorian business fraud, arguing that such characterizations were colored by a general disdain for financial activity and that conventions of fiction led to exaggeration and distortion for dramatic effect.³⁴ These criticisms should be borne in mind, but they are not prohibitive. Literary accounts of financial fraud were widespread in modern England and point to genuine concerns regarding white-collar crime. Obviously novels, plays and other popular forms of expression furnish an imperfect view of crime, yet historians ignore these sources at their peril. As Philip Jenkins pointed out in a recent review article: "no scholar should write the history of Victorian crime based on the portrayal of Bill Sikes . . . it would be equally unsound to attempt such a history without at least referring to characters like Merdle, the epic fraudsman of *Little Dorrit*, or a hundred such characters from fiction whose crimes do not generally emerge in courts."³⁵

The transgressions of these great criminal capitalists were of such magnitude that the receipts of burglars and shoplifters pale in comparison. White-collar crimes affected not only individuals but the entire economy, contributing to commercial malaise and a breakdown of trust. Such crimes were a telling indictment of the doctrines of *laissez-faire* and *caveat emptor* that tolerated high levels of fraud and offered investors little or no protection. White-collar crime also challenges traditional images of middle-class respectability and Victorian business probity.

Toward the end of *Little Dorrit*, Dickens described the hero's walk through the City of London – the financial heart of England, indeed, of the world:

As he went along, upon a dreary night, the dim streets by which he went, seemed all depositories of oppressive secrets. The deserted counting-houses, with their secrets of books and papers locked up in chests and safes; the banking-houses, with their secrets of strong rooms and wells, the keys of which were in a very few secret pockets and a very few secret breasts; the secrets of all the dispersed grinders in the vast mill, among whom there were doubtless plunderers, forgers, and trust-betrayers of many sorts, whom the light of any day that dawned might reveal; he could have fancied that these things, in hiding, imparted a heaviness to the air.³⁶

It is this study's intention to cast light into these dark areas of the commercial past.