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‘Wealth Makes Worship’:
Attitudes to Joint Stock Enterprise in British Law,
Politics, and Culture, c. 1800 – c. 1870.

Thesis submitted to the University of Kent at Canterbury for the
degree of Doctor of Philosophy.

James Conrad Taylor

2002
Abstract

‘Wealth Makes Worship’: Attitudes to Joint Stock Enterprise in British Law, Politics, and Culture, c. 1800 — c. 1870

This thesis takes issue with many of the claims and assumptions of much of the existing historiography on joint stock enterprise in nineteenth-century Britain. Historians have presented the conferral by the state of automatic rights of incorporation on companies in a Whiggish light, as a natural and inevitable step towards a modern economy. Such accounts denigrate opponents of this intervention as ignorant, prejudiced, or self-interested and suggest that opposition was restricted largely to the Conservative Party. The first part of the thesis presents an alternative picture which stresses the coherence, breadth, and depth of antipathy towards joint stock enterprise. This interpretation is based on an extensive reading of popular sources including novels, plays, newspapers, and cartoons, alongside parliamentary papers, law reports, and pamphlets.

Part two of the thesis traces changing attitudes towards corporate enterprise, and considers why joint stock companies were accorded legislative sanction between 1844 and 1862. It rejects simplistic accounts which describe this process in terms of the rising tide of free trade and laissez-faire, and argues that a significant reconceptualisation of the joint stock company occurred in these years, by which the boundaries between public and private spheres were redrawn. Corporate privileges became viewed as private rights which the state could not justly withhold from joint stock enterprise.

The legislative framework constructed between 1844 and 1862 was severely tested by the commercial crisis of 1866, but ultimately the crisis served to entrench rather than to undermine the position of joint stock companies. Despite continued criticism of joint stock enterprise after 1866, it is argued that this was harmless, partly owing to the redefinition of companies as private entities, partly because those concerned by standards of commercial morality thought that the only way to purify commerce was to reform personal behaviour rather than impose legislative solutions.
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List of Abbreviations

The following abbreviations have been used in footnotes:

BM  British Museum
BT  Board of Trade Papers
ER  English Reports
PD  Parliamentary Debates
PP  Parliamentary Papers
PRO Public Record Office
Introduction

Robert Bell’s popular mid-century novel, *The Ladder of Gold*, tells the story of Richard Rawlings, a self-made railway entrepreneur. ¹ Heavily influenced by the rise and fall in the 1840s of George Hudson, the so-called ‘Railway King’, Bell presents an account of a man embittered by the poverty into which he was born, and by his experiences as a baited shop apprentice, advancing to power and respectability by dint of his ruthless pursuit of wealth and status. The first book of the second volume, entitled ‘Wealth Makes Worship’, opens with his first appearance in the House of Commons after his triumphant election with the slogan ‘Rawlings, Railways, and Independence’, and ends with him successfully engineering his daughter’s marriage into the aristocracy. Along the way, we see him ruthlessly coercing shareholders at general meetings in the same way that he coerces his daughter, and receiving people of ‘mark and distinction’ at his dinners in Park Lane. His financial success ‘made the grovelling world at his feet look up to him with a feeling of confidence, not such as men repose in the known and tested powers of their fellow-men, but such as a slavish superstition accords to Juggernaut or Joss.’ ² Rawlings, though presented in an unsympathetic light, is not the principal villain of the novel. Rather, the public, ‘the grovelling world’ which worships wealth indiscriminately, bears the brunt of Bell’s fury. Bell rails in particular against the ‘privileged orders’ who are always ready ‘to open their arms to Mammon, through whatever miry channels it approaches, or in whatever shape it presents itself.’ ³ By this worship, they undermined society’s natural hierarchy, allowing unworthy men to occupy privileged and respectable positions in society, warping traditional values, and encouraging immoral speculation at the expense of honest labour. The population was worshipping wealth rather than the moral values which wealth implied.

Bell was not a lone voice. Throughout the years covered by this thesis, joint stock companies, similar to those promoted by Rawlings, were a topic of frequent discussion, and regular censure in Parliament, in the courts, in newspapers and journals, in debating societies, in diaries and letters, in novels, and plays. At no point in these years did joint stock enterprise dominate the economy in the way that it was to in the twentieth century; until the last quarter of the nineteenth century, around 90 per cent of firms in Britain were family-based

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¹ Bell (1800-67) the son of an Irish magistrate, and close friend of Thackeray and Trollope, was a leading man of letters in mid-century Britain. *The Ladder of Gold*, initially serialised in *Bentley’s Miscellany*, was his first novel, and was particularly well reviewed. See John Sutherland, *The Stanford Companion to Victorian Fiction* (Stanford: Stanford University Press, 1989), p. 56.


³ Ibid., i, p. 252.
partnerships. But this thesis is not a quantification of the joint stock economy; it is an examination of contemporary perceptions of, and attitudes to, joint stock enterprise, and how these shaped the legal framework regulating business corporations. Despite the endurance of private partnerships, contemporaries were undeniably impressed by the extent and power of joint stock enterprise long before it came to dominate the economy. Nowhere was this more apparent than in the field of law, for the growth of joint stock enterprise raised a series of questions regarding the rights and responsibilities of those associating in these companies which could only be resolved in court. In the first year of Victoria's reign, the lawyer Charles Wordsworth remarked on 'the tendency of society to form combinations'. His response to this phenomenon was to produce the first handbook of company law. Twelve years later, the Law Times commented, 'The Law of Joint-Stock Companies is the growth of our own times', remarking that compared with the start of the decade, there were 'now ten cases growing out of the Law of Joint-Stock Companies for one that then appeared.' The expansion of joint stock enterprise left many other traces. The extensive reporting from the 1820s of share lists in daily newspapers paid testimony to the growing importance of the corporate economy, while the 1830s and 1840s saw the birth of a specialist railway press, dedicated to reporting the latest company information to the investing public. Certainly, railways were the most visible embodiment of joint stock power, revolutionising communications for all classes and in the process bringing about what has recently been described as 'the most dramatic infringement of private property rights in England since the Civil War.' The age of Victoria is an age of iron', trumpeted the Westminster Review in 1853. But the railways were not the only aspect of joint stock enterprise to leave an impact on people's daily lives. In 1846, J. W. Gilbart, managing director of the London and Westminster Bank, proclaimed 'This is the age of public companies'.

We receive our education in schools and colleges founded by public companies. We commence active life by opening an account with a banking company. We insure our lives and our property with an insurance company. We avail ourselves of docks, and harbours, and bridges, and canals, constructed by public companies. One company paves our streets, another supplies us with water, and a third enlightens us with gas...And if we wish to travel, there are railway companies, and steam boat companies, and navigation companies, ready to whirl us

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[6] Ibid.


to every part of the earth. And when, after all this turmoil, we arrive at our journey's end, cemetery companies wait to receive our remains, and take charge of our bones.\textsuperscript{10}

Despite the continued dominance of partnerships in many areas of the economy until the late nineteenth and early twentieth centuries, it would be wrong to dismiss as misguided or deluded the perceptions of contemporaries. While the joint stock economy of the 1840s was undeniably insignificant when compared with that of the 1940s, it was huge when compared with that of the 1740s, when, according to William Maitland, there were just 26 companies in operation.\textsuperscript{11} Contemporaries were awed, concerned, or horrified by, but rarely indifferent to, the spread of joint stock companies, and the pace of company formation in speculative booms, such as those of 1824-5, 1834-7, and 1844-5 became a regular topic of public debate.

In 1856 it was argued that commercial morality had not kept up with the 'progressive enlightenment of the age.' In the 'haste to be rich', immoral behaviour had become the norm, and this evil was 'much aggravated at the present day by the vast number of new joint-stock associations'.\textsuperscript{12} While the morality of business is a recurring theme in this thesis, the aim is to do more than merely catalogue condemnations of 'Mammonism'. In particular, the thesis seeks to show that criticism of joint stock companies was not confined to radical and ultra conservative circles, and consisted of much more than simple abhorrence of the process of money-making. Rather, opposition to joint stock enterprise was much more widely diffused throughout society, and could be found in liberal circles as much as conservative, and in the counting house as much as in the Commons. Joint stock enterprise was condemned not in the name of reaction but of progress. The nation's economic pre-eminence was held to derive from its exacting commercial standards. The untrammelled expansion of joint stock enterprise would prove deleterious to these standards, and would amount to a retrogression, while limited liability was looked upon as a dangerous, 'un-English' doctrine. The law of partnership was held to embody the natural order, and to allow free play to economic forces: companies acting under different laws undermined this system and represented an unnecessary and destructive interference with the providential dispensation.

\textsuperscript{12} Anon., \textit{Commercial Morality; Or, Thoughts for the Times} (London: Smith, Elder and Co, 1856), pp. 4-5.
Though the late nineteenth and early twentieth centuries saw occasional surveys of the history of joint stock companies, the subject first attracted sustained attention in the 1930s, the Great Depression perhaps prompting a degree of reflexivity about western society's economic arrangements. Articles by H. A. Shannon and Geoffrey Todd were followed by monographs discussing company finance between 1775 and 1850 by George Heberton Evans, the development of company law in the nineteenth century by Bishop Carleton Hunt, joint stock companies in the eighteenth century by Armand B. DuBois, and a survey of business organisation from the mid-nineteenth century by James B. Jefferys. These works, particularly those of Shannon and Hunt, established an interpretation of the changes in the laws regulating joint stock companies through the nineteenth century which has in many ways persisted until the present day. The outline of this interpretation will be familiar. The 'Bubble Act', passed in response to the speculative boom of 1719-20, frustrated economic development for over a century, until it was wisely repealed during another boom in 1825. However, due to a combination of conservatism and prejudice, legislators and lawyers, demonstrating an extraordinary unresponsiveness to the needs of the business community, were slow to appreciate the necessity in a modern economy of removing all impediments to joint stock enterprise. Some half-hearted and ineffectual measures by the Whigs in the 1830s notwithstanding, the country had to wait until the 1850s, when the tide of free trade had become irresistible, for legislation which removed all restrictions on access to corporate advantages.

This interpretation is characterised by a belief in the inevitability of the change in the law, and by a tone of impatience with those who resisted it. Shannon gave no sense of the deep ideological conflict underlying debate in this period. For him, reform was inevitable, for without it, 'full economic development was impossible.' The conservatism of the legal profession and of certain businessmen, and the indifference of the legislature conspired to delay 'the correction of an unsuitable body of law'. In his account, the unquestionable

15 Shannon, 'General Limited Liability', p. 274.
16 Ibid., p. 271.
superiority of the reformers' arguments eventually secured the necessary changes. We are
told, for example, that following Robert Lowe's speech in 1856 outlining his Joint Stock
Companies Bill, 'There was no debate – there could hardly be any after his speech – and the
Bill passed easily.'\textsuperscript{17} Hunt served up a similar story. He was dismissive of the nineteenth-
century 'prejudice' against the company as a form of business organisation, and contended
that 'Hoary ideas of partnership' tended 'to confuse thinking with regard to corporate
enterprise.'\textsuperscript{18} For Hunt, the history of the joint stock company in England 'during the one
hundred and fifty years following the statute of 1720 is the story of an economic necessity
forcing its way slowly and painfully to legal recognition against strong commercial prejudice
in favour of “individual” enterprise, and in the face of determined attempts of both the
legislature and the courts to deny it.'\textsuperscript{19}

In these accounts, the cause of joint stock companies was closely associated with the
principles of laissez faire and free trade. Companies were the enemy of privilege, restriction
and interference, and their victory, partial in 1844, and complete in 1855-56, was entirely
consistent with contemporaneous measures such as the repeal of the Corn Laws, the
Navigation Acts, and the Usury Laws. Surprisingly, left-wing historians who tackled the
subject produced indistinguishable conclusions. John Saville found no reason to question the
identification of limited liability with free trade, holding that, 'With the acceptance of limited
liability in 1855 a free-trade Parliament had at last applied the principles of a laissez faire
political economy to money and commercial dealings.' Hesitancy, he explained, had been
due to 'the carryover of traditional ways of thinking and the confusions which resulted
therefrom.'\textsuperscript{20}

Few monographs since the 1930s have dealt with attitudes to companies and the
change in the law in the nineteenth century, and as a result, these early views have coloured
much of the subsequent literature on the subject to an unusual extent. The arguments of Hunt,
Shannon and others are frequently recycled, sometimes without criticism. In 1979, P. S.
Atiyah saw the reforms of 1855-56 as part of the rise of the principle of freedom of contract.
He blamed the 'old-fashioned' views of senior legal authorities for the state's slowness to
grant companies full rights of incorporation: Lord Chancellor Eldon's judgements were
'irresponsible'; Chief Justice Best 'sided against history.' Atiyah, evidently impatient with
such obstructionism, declares, 'Clearly, this could not go on in the new age.'\textsuperscript{21} Later, he
comments on the controversy over limited liability, that 'the outcome of the debate appears

\textsuperscript{17} Ibid., p. 289.
\textsuperscript{19} Ibid., p. 13.
431.
today to have had an air of inevitability about it.'\textsuperscript{22} Henry N. Butler's account of the change in company law posits a straightforward struggle between the forces of 'liberalization' and conservatism. Aside from conservatism, ignorance was the other principal obstacle to reform: 'the absence of a complete understanding of the important economic role of limited liability in the corporate firm may account for the tardiness of granting this final attribute of corporateness.'\textsuperscript{23} Nevertheless, it was ultimately the case that 'the political atmosphere of the time probably made it impossible to legislate against the freedom of contract'.\textsuperscript{24}

Underlying these accounts to a greater or lesser extent is the assumption that joint stock enterprise had become an economic necessity by the period of accelerated industrialisation in the late eighteenth century, if not before, and that the unfriendly legal climate was a serious impediment to industrial and commercial progress. In these accounts, the law is presented as unresponsive to, and autonomous from, the economy. This view has been challenged, most notably by P. L. Cottrell in \textit{Industrial Finance}, who claims that the Bubble Act had little impact on industry because the individual proprietorship and the small partnership provided a framework 'within which nearly all concerns could raise the finance they required'. Cottrell points out that 'Extremely complex and capital intensive concerns involving multi-site operations and combining manufacturing, merchanting and even banking could and did operate as partnerships', and that partnership law continued to serve the needs of most businesses until late into the nineteenth century.\textsuperscript{25} Such an interpretation implies that far from responding to the needs of industry, the state, in allowing free incorporation between 1844 and 1862, was in fact acting in advance of economic developments.

This leaves us with the task of explaining why the state acted in the way that it did. An influential interpretation was advanced by Jefferys in the 1930s, that the main driver of reform was the growing demand of rentier investors in London and other commercial centres for outlets of investment. Pressure for reform became irresistible in the early 1850s, with the National Debt shrinking and the decline in demand for capital by railway companies. Frustrated investors, argued Jefferys, 'were the chief instigators of the Limited Liability legislation...their great eagerness to give their savings outran the demand for them by the industrialists.'\textsuperscript{26} Cottrell disagrees with Jefferys, but seems at a loss to provide alternative explanations for the suddenness of the reforms of 1855-56, offering the somewhat inadequate comment that 'The reasons for this dramatic change in the basis of company law are still in

\begin{footnotes}
\item \textsuperscript{22} Ibid., p. 566.
\item \textsuperscript{24} Ibid., p. 182.
\item \textsuperscript{25} P. L. Cottrell, \textit{Industrial Finance 1830-1914} (London: Methuen, 1980), p. 10. As Ron Harris has pointed out, the belief that joint stock companies were not important to economic development has led to their being wholly ignored by some economic historians. Harris, \textit{Industrializing English Law}, p. 5, n. 7.
\item \textsuperscript{26} Jefferys, 'Trends', pp. 9-10.
\end{footnotes}
some part unclear'.\textsuperscript{27} And despite the stress he lays on the tenacity of commercial hostility to joint stock enterprise through the century, some of his assertions reveal a debt to Hunt and Shannon, such as his claim that ‘reform of company law during the first half of the nineteenth century had been a slow and gradual process which had been checked by both the hostility of the courts and the inflexible attitude of the Board of Trade in interpreting legislation.’\textsuperscript{28}

The most recent monograph to tackle the subject of joint stock enterprise, Ron Harris’ \textit{Industrializing English Law}, claims to present a complex and radical new interpretation of the change in company law, declining to offer ‘a simple and coherent thesis’, and instead adopting ‘a pragmatic and dialectic approach’ to the subject.\textsuperscript{29} Harris rightly questions earlier assumptions that the process of company law reform was ‘linear and progressive’,\textsuperscript{30} but in reality, as Paddy Ireland has commented, Harris’s thesis is less original and a great deal simpler than he pretends.\textsuperscript{31} It can be boiled down to the view that before 1720, the law proved responsive to the demands of the business community, but that this was followed by a period of unresponsiveness, characterised by ‘economic development’ and ‘legal stagnation’. The normal relationship of responsiveness was restored in the early nineteenth century, however, culminating in the legislation of 1844, principally due to the shock of stock market crashes and the healthy influx of middle class members into Parliament.\textsuperscript{32} There is little to distinguish the substance of his argument from those of Hunt and Shannon: reform, retarded by prejudice and conservatism, was a pragmatic response to the demands of industry.

However, some recent works have showed signs of rejecting the restrictive conceptual framework erected in the 1930s. Boyd Hilton’s \textit{The Age of Atonement} includes a brief, though valuable, account of the way in which limited liability produced a profound moral and religious division of opinion in mid-nineteenth century Britain.\textsuperscript{33} G. R. Searle’s \textit{Morality and the Market in Victorian Britain} usefully situates the development of company law and contemporary concern with business fraud in the broader context of nineteenth-century debates about the parameters of the market and the ethics of capitalism.\textsuperscript{34} Timothy Alborn’s \textit{Conceiving Companies} attempts to redraw the boundaries between public and private spheres in our understanding of joint stock enterprise in the nineteenth century. He demonstrates the political dimension of the activities of large joint stock companies, which had to legitimise

\begin{enumerate}
\item Cottrell, \textit{Industrial Finance}, p. 41.
\item Ibid., p. 45.
\item Harris, \textit{Industrializing English Law}, pp. 8-9.
\item Harris, \textit{Industrializing English Law}, p. 9.
\end{enumerate}
their authority with their 'constituents', composed of shareholders, customers, and employees, in order to make a profit.\textsuperscript{35}

Alborn notes the disadvantaged position of modern scholars writing on the joint stock economy, handicapped by assumptions of rigid divisions between public and private spheres not shared by the objects of their study.\textsuperscript{36} Indeed, writing at a time when multinational corporations are accepted as inevitable features of a modern economy, it can be a difficult task to reconstruct how companies were perceived in an age whose commercial system was predicated on the assumption that economic activity was conducted by individuals or small groups of entrepreneurs. Today, the legal fiction of the corporation which exists autonomously from its members seems a natural aspect of a capitalist economy. Until the late nineteenth century, however, joint stock companies were conceived of as no more than collections of the individuals who made them up; a point reflected in the language contemporaries used to describe them. Companies, whether incorporated or not, were commonly referred to in the plural rather than the singular. This even occurred in the courts, where precision of language was obviously vital. In one case in 1837, Baron Alderson judged that the company in question could 'do what they like' with their money, obtaining 'their profit in any way they please from the employment of their capital stock.'\textsuperscript{37}

Notions taken for granted today were alien in the period covered by this thesis. That a collection of individuals associating in the form of a company should be able to sue in the courts as an autonomous entity, that individuals should be able to transfer into and out of the company at will, that they should bear only a limited responsibility for the actions of the company, that such responsibility should cease immediately on the sale of their shares, and that such companies should continue to exist after all the original members had long since died, were alarming and unfamiliar concepts in the nineteenth century. Of course, corporations possessing these privileges such as the East India Company, the Bank of England, and the South Sea Company had long histories by this stage. The key point was that they only held these privileges by the consent of the state, which granted them to enable the companies to carry out 'public' functions. Other joint stock companies also enjoyed corporate privileges at the turn of the nineteenth century, most notably canal companies. But these powers were granted on a case-by-case basis, to concerns which could persuade the state that to exempt them from the laws of the land would serve the public interest. It was conceived that such companies would always be few in number, for most trades would best be conducted by individuals or partnerships.

\textsuperscript{36} Ibid., p. 257.
This situation was entirely undermined by legislation of 1844, 1855, and 1856, which made the privileges of incorporation freely available to most joint stock concerns on simple registration. This thesis seeks to reproblematise this legislation by presenting it not as the inevitable culmination of a sustained battle against ignorance, prejudice, and conservatism, but as a privatisation of the corporation entailing a sudden and significant redistribution of rights by the state from creditors to debtors. The legislation is presented not as a pragmatic attempt to maximise economic efficiency, but as an ideological intervention whose political, social, as well as economic causes, warrant investigation. Much of the historiographical distortion of the nineteenth-century debate on corporate privileges stems from the tendency historians have demonstrated, sometimes unconsciously, to privilege the arguments of the ‘winners’ of that debate. The thesis attempts to provide a more rounded picture of attitudes to joint stock enterprise by indicating the extent to which reservations regarding the benefits of joint stock enterprise were held in nineteenth-century society. Hilton’s claim that ‘limited liability was essentially a Whig and Radical policy, and was opposed by most Tories, whether High or Liberal’, does not do justice to the complex and confusing way in which issues of company law cut across traditional political lines. Odd alliances and odder antagonisms were formed in the joint stock debate, as Jefferys noted: ‘Anti-Corn Law Leaguer found himself opposed to “brother Leaguers”’. When these complexities are acknowledged, simple identifications between company law reform and free trade become less tenable.

The aim of this thesis is to challenge the still-influential conceptual framework established in the 1930s to a degree which has not yet been attempted. Harris, though protesting originality, demonstrates a reliance on the earlier assumptions of Shannon, Hunt, and others. The treatments of company law by Searle and Hilton, while useful, are in both cases relatively small parts of much larger wholes, and leave scope for a longer study. Alborn’s monograph, while stressing the public aspects of joint stock companies, by concentrating on the specific issues deriving from just two sectors of the economy, banking and railways, does not reflect on the issues raised by joint stock companies more generally. His work takes the existence of these companies as a given, whereas this thesis, by examining the wider question of the place of joint stock companies in the nineteenth-century world view, engages with broader questions relating to the joint stock form. The central focus of the work is the changing legal position of the joint stock company in nineteenth-century Britain, and the shifting attitudes to corporate enterprise which facilitated this change. While the reforms are explained partly in terms of these shifts in attitudes, it is also argued that part of

39 Hilton, Age of Atonement, p. 256.
the motivation must be sought in the desire of the state to reform itself. By mid-century, the
exercise of its powers of incorporation had become an embarrassment which the state was
keen to shed. Changing attitudes among certain sections of society to the role and nature of
companies provided the state with the opportunity to accomplish this.

Sources

A key intention of the thesis is to indicate that the significance of the impact of joint stock
enterprise on the nineteenth-century mind can only fully be understood by examining the
evidence provided by popular culture, in the form of novels, plays, newspapers, cartoons, and
verse. Cultural sources have been used relatively sparingly by historians of joint stock
enterprise in the nineteenth century. There have been a number of articles, chapters, and
monographs considering popular representations of commerce and speculation, but these are
more from members of English Literature than History departments.41 The classic surveys of
the 1930s contain at most the occasional reference to a novel by Charles Dickens. More
recent works, such as those by Cottrell and Harris, similarly neglect cultural sources, and
detail processes of reform without reference to social attitudes. Cartoons, when reprinted, are
typically employed for decorative purposes, rather than as historical evidence.42 In this thesis
it will be argued that an examination of such sources provides a valuable insight into the role
played by joint stock companies in the imaginative world of contemporaries. The novel
enjoyed enormous popularity in the nineteenth century. Serialisation, cheap editions,
libraries, and the availability of books in coffee houses ensured that novels were consumed in
great numbers.43 Popular novels enjoyed enormous sales: Dickens' Nicholas Nickleby, sold in

41 The articles and chapters include, Timothy L. Albom, 'The Moral of the Failed Bank: Professional Plots in
Banks, 'The Way They Lived Then: Anthony Trollope and the 1870s', Victorian Studies, 12 (1968), pp. 177-
200; N. N. Feltes, 'Community and the Limits of Liability in Two Mid-Victorian Novels', Victorian Studies, 17
Jones, Shipping Entrepreneur Par Excellence (London: Europa, 1978), pp. ix-ivi; McKendrick, "Gentlemen
and Players" revisited: the gentlemanly ideal, the business ideal and the professional ideal in English literary
culture", in McKendrick and R. B. Outhwaite (eds), Business Life and Public Policy (Cambridge: Cambridge
Victorian Studies, 27 (1984), pp. 179-202; Norman Russell, "Nicholas Nickleby and the Commercial Crisis of
1825", The Dickensian, 77 (1981), pp. 144-50. For relevant monographs, see John McVeagh, Tradefull
Russell, The Novelist and Mammon (Oxford: Oxford University Press, 1986); Barbara Weiss, The Hell of the

42 See for example Kostal, Railway Capitalism.

43 On the peculiarly strong impact of serialised novels, see Linda K. Hughes & Michael Lund, The Victorian
Serial (Charlottesville: University Press of Virginia, 1991), p. 4. Book purchase was not an exclusively upper
and middle class activity. See Louis James, Fiction For the Working Man 1830-50 (1963) (Harmondsworth:
parts in 1838-39, averaged 50,000 a part, while part one of his *Our Mutual Friend*, sold 30,000 within three days of its release in 1864.44 Those writings which were found entertaining, which were read in leisure, are likely to reflect unspoken assumptions and values. As has been asserted, ‘few sources can tell us more about prevailing social attitudes and preferred social values.’45

This perspective should not be ignored, especially when it is the case that novels and plays have frequently been used in an unsatisfactory manner. In several studies, novels are examined in order to garner ‘facts’ about the ‘realities’ of joint stock enterprise and speculation. We are thus warned of the possibility of ‘exaggeration’, ‘distortion’ and ‘misrepresentation’ of business practice in works of fiction. J. A. Banks, for example, criticises Trollope for inaccuracies and exaggerations in *The Way We Live Now*. For Banks, the novel ‘lacks verisimilitude. It does not have the air of conforming to reality.’46 Using similar criteria, Norman Russell praises Mrs Gore for her ‘essentially practical and balanced view of Mammon’, and holds that, ‘Of all nineteenth-century novelists who turned their attention to the City and its doings, Mrs Gore was the most faithful to reality’.47 For Russell, Gore’s works were a noble exception to the misrepresentations of business reality commonly peddled in Victorian literature, and he concludes that ‘In seeking to gain some insights into nineteenth-century business life from the novels of the period, their readers need to tread a wary road.’48

But what these critics do not acknowledge is that it is possible to ask a different set of questions of fictive sources. Novels and plays can be used as a source not of the ‘realities’ of nineteenth-century business, but of the ways in which the public *perceived* business. Victorian novels and plays constantly tackled the themes of speculation and bankruptcy. Of the 150 novels used in Richard Altick’s recent thematic survey of Victorian literature, one fifth feature passages relating to bankruptcy, a frequency matched only by election scenes.49 Many of these deal specifically with the misery caused by speculation in joint stock company shares. The extent to which elements of the corporate economy featured in fiction indicates a preoccupation on the part of novelists, and readers, with these new and unfamiliar aspects of Victorian commerce. A reading of these fictions with the aim of elucidating how joint stock enterprise was popularly perceived in the nineteenth century is therefore valid.

It might be argued that novels and plays dealing with commerce were not simply reflecting contemporary attitudes, but were to a large extent continuing a literary tradition of

46 Banks, ‘Way They Lived Then’, p. 185.
48 Ibid., p. 24.
antipathy to joint stock enterprise. Russell traces this tradition back to 1692 and Thomas Shadwell’s comedy The Stock Jobbers, continuing through the eighteenth century in the work of a variety of authors including Jonathan Swift, John Gay, Tobias Smollett, and Oliver Goldsmith. But while this enduring trend clearly influenced how authors represented joint stock enterprise, it is not an insurmountable problem. As has been made clear by John McVeagh and Neil McKendrick, the literary tradition was far from being uniformly ‘anti-business’. Furthermore, the sheer volume of novels and plays tackling this theme indicates that authors were doing more than merely rehashing old prejudices. Indeed, they were responding to company promotion, speculation, and fraud, which to them seemed to exist on a scale unknown to the eighteenth century. Many of these novels and plays appeared after booms in company promotion or high-profile financial scandals, and dealt explicitly with issues raised by these phenomena. Authors and playwrights were clearly responding in a spontaneous manner to the events they witnessed, and used fiction in order to try to interpret and make sense of the new economy.

Novels and plays form an important part of the material consulted in the research for this thesis. An effort was made to widen the survey beyond the handful of authors in the nineteenth-century ‘canon’ whose works are already familiar, to include authors who were popular in their day, but who have been subsequently forgotten. Novels which sold well, or which were serialised in periodicals were given precedence in the selection process, on the grounds that their success and mass publication increased the likelihood that they were both representative of, and influential on, contemporary opinion. That many of these titles sold well seems significant, as it suggests that themes of speculation, bankruptcy and corruption resonated with publishers and readers. Similarly, the plays considered were by playwrights popular in their day.

Newspapers are also a valuable source for contemporary attitudes. They were as eagerly, and as publicly, devoured by the nineteenth-century public as novels. Newspapers were discussed among the groups of friends who pooled resources to buy them; they were read aloud amongst gatherings in pubs; they were available in coffee shops, and in subscription reading rooms. The price of newspapers, especially before the 1850s, meant that rather than the disposable ephemera they are today, they were treasured items which enjoyed a great longevity, being passed eagerly from hand to hand for weeks, even months. Their influence in shaping and reflecting opinion was obviously enormously significant. One drawback with their use as a source is that in their function of reporting news, they might

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51 McVeagh, Trade and Merchants, chs 2-3; McKendrick, ‘Gentlemen and Players’.
neglect the broader view. But leader columns were commonly given over to in-depth
discussions of aspects of current affairs over the course of days or even weeks. A more
serious question is raised by newspapers' claims to represent 'public opinion'. While
newspapers in the eighteenth century had commonly been the tools of political parties and
factions, they are often seen as enjoying a greater level of independence in the nineteenth
century. Yet they did not always represent an independent public opinion. In a narrow sense,
newspapers must primarily reflect the views of their proprietors, editors, and leader writers.
This was demonstrated particularly clearly by the case of Robert Lowe and The Times in the
1850s. Lowe, a keen supporter of joint stock enterprise in general, and of limited liability in
particular, was employed from the start of the decade as a leader writer on The Times. He
was, it seems, responsible for converting the newspaper from staunch support of unlimited
responsibility to loud campaigner for the right of limited liability. His columns regularly
propounded the case for company law reform, and just as regularly belaboured anyone who
opposed it. The conversion of the paper is traditionally taken as a sign of the growing
influence of new economic thinking, but such an interpretation is more problematic once
Lowe's role is appreciated.

The quarterly political and literary reviews and monthly magazines are valuable
sources of elite opinion. The Edinburgh Review was first to be established in 1802. There
followed in 1809 the Quarterly Review, and in 1817, Blackwood's Edinburgh Magazine, both
set up to challenge the Whig hegemony of the Edinburgh Review. The Westminster Review
was established in 1824 to advance the Benthamite line, and in 1830 came Fraser's
Magazine, another Conservative journal. These were strictly for the elite. In 1834, the
Edinburgh and Quarterly reviews cost 6s; Blackwood's and Fraser's sold for 2s 6d. The sales
of the quarterlies were around 12,000, and between 3,000 and 8,000 for the monthlies.\(^\text{53}\) They
did, however, reach a larger audience than these figures suggest, owing to their presence in
the subscription reading rooms and some coffee shops, and their inclusion in book clubs.
Periodicals were reviewed by newspapers, which gave them influence with the wider public.
Their impact was far from merely transitory: as Anna Gambles argues, the practice of binding
and indexing periodicals for libraries 'transformed periodicals and pamphlets into resources
for posterity.'\(^\text{54}\) Their influence, though likely to be confined largely to the party whose views
they represented, was significant, and their distinctly partisan nature makes it easier to take
them as representative of views within the principal political groupings.\(^\text{55}\) The articles
published within them were meant to represent more than the views of the author. The

\(^{53}\) Altick, Common Reader, p. 319.


\(^{55}\) Gambles has sketched the role played by the Conservative periodical press in moulding Conservative party
opinion: ibid., pp. 14-16.
tradition of anonymous publication was considered by the journalist Eneas Sweetland Dallas to be crucial in achieving a cohesive journal identity, what he termed 'that continuity of thought and sentiment which is its life and power.'\textsuperscript{56} When taken together, they are a valuable source for opinion in high political circles. I have considered a range of daily, weekly, and specialist newspapers in particular years, and have examined longer runs of the key monthlies and weeklies.

Much of the debate on companies and speculation was carried out in an extensive pamphlet literature. The influence of pamphlets was sometimes doubted by contemporaries: at the end of a favourable review in \textit{Blackwood's Edinburgh Magazine} of an anonymous pamphlet on the South American mines by Benjamin Disraeli, William Maginn wrote, "Why does he not send us articles for our Magazine? A man of his taste must know that writing a pamphlet is throwing away time, for nobody reads it."\textsuperscript{57} But this comment should not be taken as reliable evidence of the size of the audience of nineteenth-century pamphlets. The review was written in a jesting tone, and its very existence was evidence that pamphlets reached a significant audience and could be influential in affecting opinion. Admittedly, pamphlets could be written for shady purposes: Disraeli’s pamphlets in 1825, presented as objective analyses of the prospects of the South American mines, were nothing more than elaborate share puffs for companies in which he had invested heavily. But the ‘bias’ of many pamphlets makes them no less useful as sources for the arguments used by both the proponents and opponents of joint stock companies, whether self-interested or not.

This thesis is an analysis of political and legal as well as popular opinion. Therefore, extensive research was conducted in the records of parliamentary debates, parliamentary papers, Board of Trade papers, and law reports. Parliamentary debates were of far greater moment in British culture in the nineteenth century than today. Debates received extensive coverage in the daily and weekly press. Though the fact that the records of parliamentary debates, established in 1803, were not verbatim accounts but were assembled from reports in the press must be remembered, they remain an invaluable source of contemporary political culture.\textsuperscript{58} Debates on private bills were not always reported in the parliamentary debates, but those that were provide an insight into the attitude of members of both Houses to incorporation, and will be referred to extensively. Parliamentary papers are another valuable source of opinion, especially the series of reports made on issues relating to joint stock companies and corporate privileges in 1837, 1844, 1850, 1851, 1854, and 1867. While far from objective surveys of public or specialist opinion, the committees and commissions

\textsuperscript{56} Cited in ibid., p. 17.
appointed by Parliament accumulated masses of useful evidence on the corporate economy and attitudes to joint stock companies. Other parliamentary returns provide a wealth of information ranging from numbers of bills of incorporation to digests of shareholders in railway companies. The Board of Trade had the power to recommend the grant of corporate privileges until 1855, and therefore the records of the department were consulted with a view to understanding the decision-making process at the Board. Legal reports, for the most part gathered together in the *English Reports* series, provide an idea of how the law on joint stock companies, often vague and uncertain in these years, was being interpreted by the judiciary. Finally, private papers of key politicians were consulted in the British Library and the Public Record Office.

**Structure**

The structure of the thesis requires some comment. Part one sets out dominant attitudes to joint stock enterprise in the early nineteenth century. Chapter one details perceptions of joint stock companies as economic actors, while chapter two analyses views on speculation in company shares. The aim here is to rehabilitate critics of joint stock enterprise, the 'losers' who have hitherto been denigrated by historians. These were more than self-interested monopolists, and their opposition was not backward-looking, anachronistically applying the lessons of 1720 to a radically altered situation. It was a legitimate opposition, based on a coherent political economy. In the same way as Anna Gambles has recently rescued the Conservative discourse on protection and the role of the state from misrepresentation, I am seeking to relocate the development of a corporate economy in Britain in its political and social context, and to give a fair account of the views of those who did not wholeheartedly support the changes they were witnessing.59

In these chapters, I have not followed Ron Harris’ approach and arranged my material according to type of source. Harris has sections entitled, ‘The Attitudes of the Business Community’, ‘The Joint-Stock Company in Court’, and ‘The Joint-Stock Company in Parliament’. This method of analysing opinion is valid, but I have not used it, preferring instead to look for the continuities and overlaps in opinion across a range of institutions, individuals, parties, and classes. It makes limited sense to consider sources in discrete categories, for when they were originally produced they entered into a dialogue with one another across genre boundaries. Legal decisions could spark pamphlets. Pamphlets were reviewed in periodicals. Periodicals serialised novels, while magazines presented satirical

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59 Gambles, *Protection and Politics.*
versions of plays, and faux company advertisements. Even artists could find themselves imitated by cartoonists in magazines.60

The first two chapters break down attitudes into a number of themes which are then traced across a wide range of sources, and a wide chronological sweep. In these chapters I suggest that a great deal of consistency can be found in the arguments of those suspicious of joint stock activity in a variety of sources throughout the period studied, sufficient to allow meaningful generalisations to be made regarding opinion in these years. Attitudes relating to questions of responsibility and liability expressed in Parliament in the early years of the century can be found fifty years later in popular novels. A cartoon might reiterate a point made by a Chief Justice, while select committees could present similar views of the careers of swindlers as those offered by comedies performed on the stage. By adopting this approach, it is hoped to highlight how criticisms of joint stock enterprise were expressed not just in isolated areas over short periods, but across the entire period, in law, politics, and culture.

Part two switches from a thematic to a chronological consideration of the period. The aim here is to explain how the views expressed in part one came to be challenged in the early decades of the century by new ideas on the role of companies and speculation in Britain’s political economy. Chapter three sets out these ideas as they were advanced in the first forty years of the century, then describes the way in which this challenge was successfully contained. By 1840, the law on companies had changed very little, and opinion, both official and popular, was still dominated by suspicion of joint stock enterprise. The story after 1840, however, was very different, with a series of measures promoted by the Governments of Peel and Palmerston completely overhauling the law regulating joint stock companies. Chapter four argues that this legislation should not be seen as the inevitable triumph of a pragmatic attitude to joint stock enterprise, but can more convincingly be viewed as the result of the conversion of these Governments to an ideology which saw joint stock companies bound up in the broader economic interest of the nation, and worthy of being brought within the protection of the law. Factors driving the state to these conclusions included the growing respectability of joint stock enterprise, a belief in the inevitability, and up to a point, the desirability of speculation, new views on the positive social effects of shareholding, and the growing difficulties encountered by the state in exercising its prerogative of incorporation.

Chapter five details the threat posed to the new legal framework erected between 1844 and 1856 by the commercial crisis of 1866, and explains why this threat, far from undermining the legal framework, actually strengthened it. By comparing reactions to the crisis expressed before a select committee of the Commons, and those presented in satirical

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magazines, novels, and plays, it identifies a growing divergence between 'official' and
'popular' sources which had not existed earlier in the century. Yet, widespread condemnation
of business fraud was not translated into legislative action, largely because of the conceptual
privatisation of the joint stock company brought about by the reforms of the 1840s and 1850s.

Throughout the thesis, I quote liberally from my sources in an attempt to give as great
an insight as possible into the beliefs informing contemporary understanding of joint stock
enterprise.
PART ONE:

ATTITUDES TO JOINT STOCK ENTERPRISE
I.

Companies, Character, and Competition

In 1845, the financial journalist David Morier Evans produced an account of the City of London, subtitled *The Physiology of London Business*. At various points in the book, Evans reflected on the varied effects the emergence of joint stock companies was having on business practice. These were profound, and even included what type of service was received by the customers of joint stock banks:

It is generally remarked that a wide difference exists between the class of people employed in Joint Stock banks and those employed in private banks. Instead of meeting in the former, as you do in the latter, cashiers and clerks peering through spectacles with a steady and staid appearance, whose only inquiries are respecting the weather and the prospects of business, you find yourself in the company of sprightly young gentlemen, who talk about new operas and the other amusements of the town with all the ease of connoisseurs in high life; and whose chief study is to give effect to chequered neckerchiefs, showy chains, and mogul pins. This no doubt is the march of improvement, but to the quiet man of business, the times, in this respect, are scarcely so acceptable as the old days of white ties, venerable faces, and tranquil attention to the wants of customers. The modern improvements do not facilitate the counting or weighing of sovereigns, crossing cheques, or balancing ledgers.¹

Evans' description of these 'sprightly young gentlemen' gently evokes the connotations of dissipation and excess which joint stock companies had for many in the nineteenth century. The extract also suggests the extent to which joint stock companies were perceived to alter daily economic life, right down to the men who served at the desk of the bank. Evans was far from alone in finding the advance of joint stock companies unsettling; such views were widely held. This chapter will explore these reasons for these views in six sections. First, there is an examination of the notions of character which were thought to underpin the partnership system of commerce. The second section considers the ways in which corporations were thought to undermine and marginalise character in business, and the effects of this on attitudes to incorporation. The widespread belief in the inferiority of the corporate conscience is then considered, along with the relationship between companies and corruption. The third section details scepticism regarding companies' claims that they were promoting ethical commerce, bringing benefits to the population by means of technological innovation. Fourth is an examination of the perceived flaws of joint stock company management, and fifth is a consideration of the harmful economic effects extensive joint stock enterprise was thought to produce. The last section is devoted to attitudes to utilities. To permit joint stock

enterprise on a large scale invited monopoly and economic dislocation, and threatened to undermine British greatness. This meant that companies could only be permitted in instances when they were clearly in the public interest. Such views clearly foresaw a substantial role for the state in sorting the beneficial companies from the harmful.

**Men of Character**

Business corporations were widely thought to undermine the morality of commercial relations because they diluted the importance in business of that cardinal nineteenth-century quality, character. Samuel Smiles believed character to be 'the highest embodiment of the human being, — the noblest heraldry of Man.' It dignified and elevated the individual, and formed the 'motive power' of society. Character was crucial in the economic world of the small partnership and the sole trader. As Stefan Collini has argued, a reputation for moral rectitude was crucial: 'to be known as a man of character was to possess the moral collateral which would reassure potential business associates'. Conversely, to have a poor reputation was fatal to a business career. Thus, business ethics were safeguarded by this simple mechanism: if a businessman cheated, it would become known, his reputation would suffer; and customers would stay away. Private enterprise depended on trust: bank notes issued by private banks, trade tokens issued by local shops, bills of exchange, and promissory notes all 'rested on assumptions of others' creditworthiness.' This was not an age of mobile capital, divorced from its owners, seeking the highest rates of profit regardless of all other considerations. Rather, as M. M. Postan justly observed, 'Capital, like all wealth and like most other things in the pre-Victorian era, was intimately bound up with human personality.' Leonore Davidoff and Catherine Hall have argued that 'the personality of the entrepreneur, or partners, was the firm.' Indeed, the individual's business was an outgrowth of his personality; the same rules regulated the individual's activity in the market as regulated his behaviour at home. And the business and the home were not so rigorously separated either conceptually or physically as they came to be. The businessman often lived in his place of work; business and domestic accounts were kept together.

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Notions of character underpinned partnership law. A partnership was based on trust and knowledge; it was a voluntary alliance of businessmen, each of whom knew the others, and had sufficient trust in their character and sufficient confidence in their abilities to want to trade together. Under partnership law, this step was not to be taken lightly, for as John George, a solicitor writing in 1825, averred, 'persons entering into partnership for carrying on any trade or business place themselves in the eye of the law in a peculiar relation with regard to each other...The law regards partners as having placed a peculiar degree of confidence in each other'.

This system implied such closeness between members that partnerships were likened to families: William Holdsworth claimed that 'Partners were in some senses brothers who represented each other.' All partners had equal rights over the partnership property, and the law of agency meant that one partner could bind the others by his actions. Contracts made by one partner were binding on all other members, crucial in order to give third parties contracting with a partner who claimed to be acting for the partnership the security of knowing that they could recover against the property of the whole partnership. The implications of the law of agency were significant. Any partner could rescind a debt due to the partnership, payment to one partner was payment to all, and any partner could do what he liked with the partnership property without consulting his fellow partners. As the Edinburgh Reviewer W. R. Greg wrote, 'The law assumes that the property of the partnership is the property of each member of it; – and accordingly any individual may march off with goods or money belonging to the body, with perfect impunity'. Furthermore, debts incurred by the partnership were regarded by the law as debts incurred by the partners: each partner was liable for these debts, in that famous phrase, 'to his last shilling and acre'. Again, this was a major ethical consideration: without such a responsibility, partnerships would trade recklessly, endangering anyone who dealt with them. Unlimited liability meant that partners had a direct economic interest in ensuring the responsible behaviour of their colleagues.

To form a partnership with individuals of whose character one was not certain was obviously therefore an act of great folly. This was even more true when one considered that disagreements between partners could not be resolved in courts of law. The law did not see the partnership as an entity distinct from its members, but merely as an aggregate of individuals. In any legal action, all the partners had to be party to the suit. A partner could not therefore sue his fellow partners, as this would involve an action against himself. Deprived of

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2 Cited in Davidoff and Hall, Family Fortunes, p. 200.
3 John George, View of the Existing Law, pp. 5-12; George Henry Lewis, The Liabilities Incurred by the Projectors, Managers and Shareholders of Railway and other Joint-Stock Companies Considered: and also the Rights and Liabilities Arising from Transfers of Shares (London: Smith, Elder and Co, 1845), pp. 3-5.
any remedy in law against his colleagues, a disgruntled partner’s only recourse was an action in Equity, a difficult and lengthy process unlikely of success.

Partnerships were easily formed, but once established, could be difficult to leave. The lawyer George Henry Lewis explained that, ‘The circumstance of one trade being carried on under the names of A, B, and C, is sufficient to create a partnership between those individuals, with all its liabilities as regards the world...the bare permission of an individual, that his name shall be used...makes him responsible as a partner.’11 A partner could only leave the partnership by circulating notice of his retirement ‘in the most extensive manner.’12 Furthermore, personal responsibility for the actions of a partnership could not be ended at the whim of a partner. A partner leaving a partnership remained fully responsible for all contracts made by the partnership with third parties while he was a member, so could be implicated in lawsuits years after ceasing his connection with the firm. Moreover, it was considered impossible for a partner to leave a concern with contracts between partners unfulfilled: ‘A, B, and C contract between themselves mutually to use their endeavours, and to bear the expenses in case of failure, to obtain a certain desired end. It would certainly be wrong that any one of the three should be at liberty to retire from the agreement and leave the weight of it on the remaining two, or cause its abandonment’ without the consent of the others.13

These aspects of partnership law were all products of the fact that the law saw partnerships as collections of individuals, not as entities existing separately from the partners who formed them. Corporate law, however, was different. Incorporated bodies were recognised in law as distinct from their members. The difference has been summarised by Paddy Ireland: partnerships are ‘mere collections or aggregations of individuals – in which the members are the association’, whereas corporations are ‘objects in themselves whose members stand in an essentially external relationship to them’, entities ‘effectively cleansed of’ their shareholders.14 This distinction had many important implications for members of the corporation. They could not act on behalf of the company; rather, the company itself contracted, bought, sold, sued, and was sued, in its own name. Members could therefore not act independently and without the knowledge of the others, but members were able to sue the company. The company’s finances were distinct from those of its members, so a member could not be asked to contribute more than his investment in the company to satisfy the company’s creditors. Thus, liability was not only limited but also easily transferable: people could transfer into and out of the company at will with the purchase and sale of shares;

11 Lewis, Liabilities Incurred, p. 3.
12 Ibid., p. 4.
13 Ibid., p. 17.
existing members did not 'vet' entry into the company, while on transfer, all personal responsibility for a company's contracts ceased.

Elsewhere in the United Kingdom there were exceptions to these rules, deriving from the greater affinity in Scotland and Ireland with continental legal systems. The development of Scottish partnership law had been influenced more by French and Dutch law than English, with the result that the Scottish common law regarded the company as a separate persona, able to sue and be sued in the name of the firm. One Scottish legal authority went further, and claimed in the early nineteenth century that investors in joint stock companies enjoyed limited liability, but it has been shown that, from the later eighteenth century at least, this was untrue. This was due to the assimilation after 1707 of the Scottish and English legal systems, on the English model. Examples of this process were the fact that the Bubble Act was uniformly held to apply in Scotland, and applications by Scottish firms for incorporation were considered by the English law officers. Thus, despite the differences between Scottish and English partnership law, it has recently been judged that in Scotland, 'an unincorporated joint-stock company was still fundamentally a large partnership rather than an entity wholly distinct from its members.'

In Ireland, by an Act of 1782 passed by Grattan’s Parliament, limited liability was available on registration, but only to partnerships, and only on several exacting conditions. This Act was heavily influenced by the example of the French en commandite partnership where sleeping partners enjoyed limited liability, but active partners had unlimited liability, and was explicitly adopted to promote Irish economic development. But many restrictions of the principle of limited liability were imposed, indicating the awareness of the Irish Parliament of the dangers involved in the principle. Furthermore, the Act was not to apply to large associations; certainly not to substantial joint stock companies, for no partnership of over £50,000 could register. Many other safeguards were imposed: the language of the Act was vague and could be interpreted as excluding the retail trade, mining, farming, and navigation from its benefits, and it explicitly excluded banks. In addition to the upper limit mentioned above, partnerships could not have capital of less than £1,000. Sleeping partners

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17 McLaren, a later editor of Bell’s Commentaries, stated in 1870 that Bell’s interpretation ‘has never been accepted by the profession; and it may be safely be asserted that many hundred thousand pounds have since been paid by the shareholders of joint-stock companies, on the footing of there being no limitation of their responsibility to creditors.’ Cited in David M. Walker, A Legal History of Scotland, 6 vols (Edinburgh: Butterworths, 1988-2001), vi, pp. 715-16; Campbell, 'The Law and the Joint-Stock Company', pp. 144-8.
19 Walker, Legal History, p. 718.
could not withdraw more than half of their share of the annual profits, the remainder was retained by the firm as a protection for creditors. New partners had to be approved by existing partners. The Lord Chancellor could annul an anonymous partner's limited liability if it was judged that the partner had sought to elude the provisions of the Act, or had deceived or defrauded his partners, or creditors of the firm; the partnership could not exist for more than fourteen years. Furthermore, as will be seen in chapter four, the Act all but fell into disuse by the 1840s. Thus, the differences in the law of partnership between the three different systems were not great, and were becoming even less so as the nineteenth century progressed.

**Associations of Capital**

The severity of partnership law was held to be a guarantee that only men of character, ability, and means would take an active role in business. But corporate law implied a more casual and less rigorous relationship between the members of a firm. As shareholders could not bind their fellows by their actions, as they bore only limited responsibility for the debts of the company, and as they could join and leave the company at their pleasure, the moral standing of an individual shareholder was of no interest to the group. The presence of a person of low character among the body of shareholders posed no threat to the others. Shareholders were not expected to contribute talent, ideas, or character to the enterprise, simply money. The Times was voicing conventional wisdom on the subject when it argued that the principal effect of joint stock companies was ‘that persons engage in them who are ignorant of business, who may be also without ability and character, who may even be without money or means beyond the particular value of their shares’. They were, the newspaper continued, ‘societies in which friendship, ability, knowledge, education, character, credit, even monied worth is in a great measure disregarded, and money, the mere amount and value of the shares standing in the name of each, is the sole bond of connexion between the proprietors.’ The joint stock system was an attempt to ‘substitute money for mind.’ Such an endeavour would stultify the creative capacity of industry: ‘money cannot make money of itself...what board of a company would ever have invented a spinning jenny!’ Karl Marx made the same point more pithily in an article in the New York Daily Tribune in July 1856, stating that ‘in joint-stock companies it is not the individuals that are associated, but the capitals.’ So, just as it

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21 Ibid., pp. 17-18.
22 The Times, 9 Oct. 1840, p. 5.
23 Ibid., 21 Oct. 1840, p. 4.
24 Ibid., 9 Nov. 1840, p. 4.
was commonly perceived that the 'cash nexus' was replacing more substantial links of friendship and trust between the employer and his workers, the same process was occurring between capitalists. The drive to more impersonal forms of business relations was taking place on all fronts.

Limited liability was the most controversial of the corporate privileges, for it amounted to a redistribution of rights from creditors to shareholders. The *Law Times* argued that by granting limited liability, the law was 'taking away the remedy of creditors'. It allowed people 'to associate together, for the purpose of making profits, without being liable for losses.' Such a law was 'directly opposed to the existing rules of law, to the principles that regulate all other dealings between man and man, even to common honesty.' The prospect of failure was a salutary check on unsound business adventures. Failure also had a positive influence on character. The popular novelist Mrs Riddell deployed equine imagery to express these views: 'a man never makes a good rider till he has been thrown...the management of the business steed is rarely understood by those who have not, some time or other, licked the dust.' Once thrown, a man will learn caution and 'will attend to his business, he will eschew marshy ground...He will remember that misfortune is usually another name for folly; that being deceived, implies having been over-confident; and so goes on safely to the end.' Such lessons could be learnt when responsibility was unlimited and a man could lose everything. But limited liability lessened the consequences of failure, removing the healthy and beneficial punishment for failure.

Such views led to official reluctance to grant corporate privileges to profit-making enterprises. By withholding these privileges it was not thought that the state was 'interfering' in trade: quite the reverse. Partnership law was the natural, providential system to govern business activity, rooted in notions of personal responsibility and reinforcing the primacy of character in commerce. The law of partnership did not 'restrict' trade: under its terms, 'every person may lawfully carry on any trade, or manual occupation for gaining his livelihood, in any place he choose, and either alone, or in partnership with others, and with as many others, as he pleases.' Interference came when the state granted privileges exempting particular firms from the operation of the law of partnership. The grant of any corporate privilege made the recipient of that privilege a 'public' body. Its property was no longer private, but public, property. Businesses seeking to trade with such privileges had to persuade either Parliament or the Crown that such a grant would be in the public interest. Before they achieved this, they

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27 Ibid.
29 John George, *View of the Existing Law*, p. 5.
were regarded in the eyes of the law as partnerships, no matter how many members they had, or how much capital they possessed. Prior to incorporation, therefore, members of these businesses were subject to all the rigours of the law of partnership, and had to suffer all the consequences of contracts they had made. What this meant in practice can best be illustrated with reference to specific court cases.

In *Kidwelly Canal Company v Raby* in 1816, the defendant, Raby, was a subscriber to a scheme for the improvement of the harbour of Kidwelly, and to construct a canal there. The subscribers secured an Act in 1812 to incorporate the company, but during this process, Raby fell out with his fellow subscribers, and requested at a committee meeting that his name be withdrawn, and it was therefore not inserted into the act. The company subsequently requested that he pay calls to the value of £165 on his alleged holding of three shares, which Raby declined to do, on the grounds that he had discharged himself from the undertaking. It was judged, however, that ‘Wherever there is an agreement between several, one party cannot withdraw without the consent of the others...Here, it is admitted, there was no consent and his declaration of abandoning, amounts to nothing.’\(^ {31}\) He had contracted to take a hand in the undertaking, and according to partnership law, this agreement was binding. Furthermore, as the plaintiff’s lawyers argued, ‘If the undertaking had turned out to be profitable, there was nothing in the supposed withdrawing, which could have precluded him from a participation of those profits as a proprietor, under the original subscription.’\(^ {32}\) Consequently, Raby was ordered to pay his calls.

Another case involved two of the directors of the abortive Brighton Water Company. These men became directors of the company in August 1825, and paid instalments on the number of shares required to qualify them to be directors. But neither man attended a company meeting after October. The following year, the company contracted with an engineer for the construction of reservoirs. The engineer began his work but the company, in common with many other enterprises of the time, folded without having secured an act of incorporation. The engineer then sought to recover from the two directors. The defence claimed that this was impossible: the men had undertaken to become directors of a concern sanctioned and regulated by an Act of Parliament, but as this act was never obtained, the concern was not that which the directors had agreed to join. They went on to argue that ‘The meetings attended, and the shares purchased by them, were meetings and shares of an inchoate and incomplete undertaking; and the parties engaged in such an undertaking are only responsible so far as they personally interfere, and move in it.’\(^ {33}\) The directors had left the concern before the engineer was hired, so they could not be held responsible. But the

\(^ {31}\) Baron Wood, *Kidwelly Canal Company v Raby* (1816), 2 Price 93, 146 ER 32, p. 34.
\(^ {32}\) Ibid., p. 33.
\(^ {33}\) *Doubleday v Muskett and Lousada* (1830), 7 Bing 110, 131 ER 43, p. 44.
plaintiff's lawyers argued that they had informed no-one of their withdrawal from the concern, and had merely ceased to attend meetings. Therefore, the plaintiff had no reason to think that the men were no longer directors. 'If the persons who held themselves out to the world as the directors of a concern like this were not to be responsible to parties employed in the concern, such parties would be without remedy.' Chief Justice Tindal agreed, judging that the defendants stood in the same situation as 'partners who, having quit a business, allow their names to remain over a door'. They were therefore declared to be fully liable.

In both cases, the defendants would have done well to heed George Lewis' warning: 'persons subscribing to a Joint Stock Company, should exercise the same degree of caution that they would do if they were going to form an ordinary trading partnership.' By enforcing the rigours of partnership law in such cases, the state saw itself as enforcing the highest standards of commercial dealing between individuals. Such enforcement was not an artificial intervention: it derived from the way in which companies were popularly conceived. It was widely believed that an overabundance of business corporations would undermine these standards. They could not behave in a moral manner: they existed solely to make money, and would do anything to achieve this aim. As they were autonomous entities, they were not moralised by the people who held shares in them, unlike partnerships whose character was wholly determined by the partners. In the individualist nineteenth century, there was a great deal of mistrust of the manner in which corporate bodies operated. People who managed these organisations felt less bound by ethical standards than individuals acting for themselves. Prompted by the libel suit filed by Maynooth College against the Courier, the Morning Chronicle wrote in 1825 that

A public body is without principle, because it is without fear. All public bodies are unprincipled, from committees of the House of Commons down to the lowest Corporations, because where the responsibility is shared with many, there is no dread of censure, and consequently no principle on which any dependence can be placed. In bodies of men, impulse rather than reason may be said to prevail, for all public assemblies partake, more or less, of the nature of mobs, and any man who knows any thing of mobs, is aware that men are often led to participate in measures from which they would shrink with apprehension, if not kept in countenance by others.

These observations were widely held to apply to joint stock companies. An anonymous author, in an open letter to John Taylor, a director of the Real del Monte company, wrote of the dangers to the public and shareholders alike resulting from the immorality of corporate

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34 Ibid., p. 44.  
35 Ibid., p. 45.  
36 Lewis, Liabilities Incurred, p. 36.  
37 Morning Chronicle, 4 Jan. 1825, p. 2.
behaviour. He was highly critical of the actions of the board of the Real del Monte, especially in its dealings with its rivals. The absence of responsibility associated with company activity was corrupting: 'experience has taught that actions from which men would shrink as individuals, they will practise with impunity, when combined with others in a corporate capacity.'

He asked how such low conduct by men of such character as the directors of the company could be explained. ‘The answer is, — they are a corporate body. Feeling no individual responsibility, their corporate sense of propriety and regard to the rights of others were extinguished by the uncontrolled influence of a grasping avarice and an overbearing selfishness.’ Years later, the Reverend Robert Bickersteth, employing almost identical language, argued that ‘Men will often sanction, in their corporate capacity, a procedure which in their private capacity they would utterly repudiate and condemn.’

Similar points were made in a variety of mediums. Douglas Jerrold’s satirical work, The Handbook of Swindling, published in 1839, is a guide to successful swindling by a Captain Barabbas Whitefeather. Whitefeather shares with the reader the lesson in morals he received from his uncle:

men, when gregarious, are inevitably swindlers...take ten, twenty, thirty men — creatures of light; admirable, estimable, conscientious persons; bywords of excellence, proverbs of truth in their individual dealings; and yet, make of them a ‘board’ — a ‘committee’ — a ‘council’ — a ‘company’ — no matter what may be the collective name by which they may be known — and immediately every member will acknowledge the quickening of a feeling — a sudden growth of an indomitable lust to — swindle.

The Captain agrees with his uncle, and offers this advice:

let every man with all possible speed enrol himself as one of a body corporate...What the superficial world denominates and brands as swindling in the individual it applauds as spirited speculation, wisdom, foresight, a fine knowledge of business in a number. Hence, if a man would swindle safely, steadily, and above all, respectably, let him become one of a public company, and his dearest wish is straight fulfilled. What a profound liar he may be on the Stock Exchange, and yet what an oracle of truth at his own fireside!...what a relief it is for the individual man, compelled to walk half his time through the world in tight moral lacing, to be allowed to sit at his ease at the Board!

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39 Ibid., p. 18.
42 Ibid., pp. 66-7.
This disjunction between individual and group behaviour, reinforced by a system of dual morals, attracted much comment. Henry English, a broker and compiler of guides to the companies of the boom of 1824-5, referred to ‘the sacrifice of character, which has, in too many instances of late, been the result of the proceedings of Joint Stock Companies’. In 1838, the *Circular to Bankers* commented that companies were more likely than individuals to engage in unjust litigation because of their ‘feeble moral and personal responsibility’.

Referring to a case just decided by the Judges of Appeal between the British Iron Company and John Attwood, in which the company had resorted to a variety of ‘unscrupulous methods’ to defeat Attwood’s claims, the *Circular* was moved to comment, ‘If a great Joint-Stock Company, composed in part of men of high commercial station and great influence in society, and backed by a million sterling of paid-up capital, could act in this manner towards an individual, what safety, it was natural to ask, can there be in dealing with such associations?’ The decision was ultimately in Attwood’s favour, but the case had taken 12 years to reach a resolution, and the *Circular* feared ‘for the safety of individuals against powerful combinations of men acting in a corporate capacity’.

Herbert Spencer had his interest awakened in the subject of corporate morality by his employment as a railway engineer in the 1840s. He gained a first-hand knowledge of the joint stock company at work. In his autobiography he recalled a drive with a party of the directors of the company he was working for. This gave him the opportunity of judging those whose names were, or were about to be, put before the public as sponsors. ‘Neither intellectually nor morally did they commend themselves to me. In some, the eager grasping at pecuniary advantage was very conspicuous; and one I more especially remember — a London barrister — left on me an impression of greed such as we hear of in those round a Monte Carlo gaming table.’ But in his 1854 article in the *Edinburgh Review*, ‘Railway Morals and Railway Policy’, Spencer made it clear that he did not believe those involved in joint stock enterprise ‘to be on the average morally lower than the community at large.’ Rather the problem was what he described as ‘the familiar fact that the corporate conscience is ever inferior to the individual conscience — that a body of men will commit as a joint act, that which every individual of them would shrink from, did he feel personally responsible.’ Spencer also argued that this decline in standards was a two-way process. Employees and customers of a

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46 Ibid., p. 307.
49 Ibid., p. 261.
company found it much easier in conscience to defraud the company than they would an individual, due to the ‘indirectness and remoteness of the evils produced’ and the perception that ‘a broad-backed company scarcely feels what would be ruinous to a private person.’

Spencer did not argue that the moral tone of society was higher in previous ages when governments regularly debased the coinage and the slave trade was thought justifiable; but although ‘great and direct’ frauds were diminishing, ‘small and indirect’ frauds were increasing, in part due to the spread of the corporation. Realisation of the pain inflicted was the crucial moral restraint to the aggression of man on man, and this, while ‘sufficiently acute to prevent a man from doing that which will entail immediate injury on a given person’, was not ‘sufficiently acute to prevent him from doing that which will entail remote injuries on unknown persons.’

With its diminution of personal responsibility and its substitution of impersonal for personal business relations, corporate enterprise facilitated these kinds of frauds, and thus contributed to the low morals of trade.

J. W. Gilbart revealed the religious dimension to the debate on corporate morality in his essay, *The Moral and Religious Duties of Public Companies*. As manager of the London and Westminster Bank, Gilbart had first hand experience of the realities of joint stock business, and it was clear that he was far from impressed by the morality of the practices he observed. His essay was an attempt to inspire companies to behave in a more ethical manner, by setting out the place of companies in the moral framework of society. He was eager to impress on his readers his belief that companies, as much as individuals, were moral agents with duties and responsibilities, and were answerable to God. But companies, as collectives, could not go to heaven: such an idea Gilbart thought ‘too wild to need refutation’. As a result they could only receive punishments or rewards in this world, unlike individuals who might receive their desserts in the next. Because the sole object of a public company was to make money, it could only be rewarded by an increase of its wealth, and punished by a reduction of its wealth. Gilbart could therefore prove that immoral behaviour by companies was self-defeating, as it would be met by divinely-inspired commercial failure, while upright behaviour, even if not immediately profitable, would eventually reap divine dividends.

To this end, a considerable portion of his essay was given over to spelling out the duties facing companies, and exhorting companies to behave in a moral way. For example, directors were told:

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50 Ibid.
Insert no erroneous statements in your prospectus; make no incorrect calculations in order to deceive a parliamentary committee; circulate no unfounded rumours for the purpose of affecting the market value of your shares; and let your annual reports contain nothing but the truth...

Do not go to law with a man merely because he is poor, and therefore unable to contend against your large capital; nor trespass on any man’s rights because he cannot afford the expense of obtaining legal redress...

It can be inferred from the promulgation of such detailed and specific commercial commandments that Gilbart thought that in practice most companies did the opposite. Indeed, it is significant that the pamphlet was very specifically targeted: the first edition of the work, in 1846, was ‘for private distribution, among such of the writer's friends as were in a position to influence the conduct of public companies.’ The fact that he republished the work in 1856 for general sale and with an unchanged text suggests that he did not feel the moral conduct of companies had improved over the intervening period, and felt that the exhortation to more moral behaviour needed a wider audience.

It was the perceived unimportance of character to joint stock enterprise which caused so much concern. Character was becoming increasingly central to middle-class ideology in the nineteenth century. ‘The increased circulation of the language of character’, notes Collini, ‘represented part of a wider reaction against the alleged vices and indulgences of the territorial aristocracy, especially in their metropolitan form.’ These vices included luxury and waste, and were contrasted to middle-class virtues of prudence and austerity. The middle classes were able to display these virtues in their business dealings, specifically private enterprise. Joint stock companies, rather than sharing the middle-class virtues, were thought to share the vices of the ruling elite. This view clearly derived from the seventeenth and eighteenth centuries, when chartered companies such as the East India Company, the Bank of England, and the South Sea Company, were tarred by their close relationship with the state. Such companies were perceived as part of the edifice of old corruption, and it was natural that this way of looking at companies persisted long into the nineteenth century. Company boards in the fiction of the time bore many of the traits of aldermanic corruption. Boards ate very well in nineteenth-century accounts. In Dickens’ Martin Chuzzlewit, we see the directors of the Anglo-Bengalee Disinterested Loan and Life Assurance Company at lunch. The cloth is thrown back from the tray, revealing ‘a pair of cold roast fowls, flanked by some potted

53 Ibid., p. 16.
54 Ibid., p. 21
55 Ibid., p. 2
56 Collini, Public Moralists, p. 106.
meats and a cool salad'. Following this, a 'bottle of excellent madeira, and another of champagne' were then brought on: 'eating and drinking on a showy scale formed no unimportant item in the business of the Ango-Bengalee Directorship.'\(^{58}\) When Tigg Montague, the chairman, returns home, he has a remarkably full dinner, consisting of choice dishes, wines and fruits.\(^{59}\) In Thackeray’s *The Great Hoggarty Diamond*, John Brough, Chairman of the Independent West Diddlesex Fire and Life Insurance Company, and allegedly engaged in 500 companies, is MP for Rottenborough.\(^{60}\)

Indeed, companies were intimately connected in the public mind with corruption from their inception to their winding up. It was thought that companies were liable to be dishonest with their investors at every stage in order to secure their confidence. *The Times* was outspoken, but not unusual in its views: ‘A system of falsehood marks them from the moment of their birth. They are born and cradled in falsehood.’\(^{61}\) When a company was placed before the public, promoters had to resort to exaggerated claims regarding the potential profits of the scheme, in order to encourage the withdrawal of capital from its ordinary channels into new and unproven ones. Without tempting the public with the prospect of huge gains, it would be impossible to persuade them to invest in joint stock schemes.\(^{62}\) To inspire confidence in a new scheme, respected names would be displayed prominently in the company prospectus. Sometimes these were used without permission; sometimes consent was purchased. Thomas Bothamley, a solicitor, testified before an 1844 select committee that companies commonly offered bribes for the use of names. He had been approached and offered £2,000 if he would put his name to a company, ‘by a party who, I believe, is a respectable man, and who considered that he was not doing anything improper’. He told Bothamley that ‘payment must be made for getting up these companies’ and that if he did not take the money, someone else would.\(^{63}\) Once the capital was secured, the dishonesty would continue. If a company was not flourishing, to make the company’s finances known to the shareholders would encourage panic and send the share price plummeting. Capital would therefore be used to keep up the value of shares on the market, and unrealistically high dividends would be paid, in order fraudulently to maintain confidence in the concern.\(^{64}\)

Immoral corporate behaviour was made possible by the absence of the individual responsibility of directors for their actions in their corporate capacity. While the members of

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\(^{59}\) Ibid., p. 389. See also *The Times*, 22 Mar. 1844, p. 4, for a detailed description of directors’ diets.


\(^{61}\) *The Times*, 22 Mar. 1844, p. 4.

\(^{62}\) Select Committee on Joint Stock Companies, PP, 1844 (119) VII.1, p. 127, q. 1530.

unincorporated associations were liable to an unlimited extent for the actions of the business, members of a corporation enjoyed limited liability. If a business corporation failed, the personal wealth of the directors of the corporation could not be reached by the firm’s creditors, and they could not be tried for the actions of the company. The unfairness of limited responsibility was often highlighted by those who believed that limited liability extended artificial protection to company members. In 1824, Daniel Sykes, MP for Hull, expressed his concerns about corporate responsibility. The only security for the creditors of a corporation was the capital invested in the corporation, for ‘The separate members would be rendered individually irresponsible.’ This was a very poor security. Sykes knew parties who had won an action against a mayor and corporation, ‘but still the mayor and corporation laughed at the success of the suitor, because their corporate property and responsibility only being in question, there was nothing upon which he could seize of sufficient value to meet his demand.’ Such a distinction between personal and corporate property was even more dangerous when applied to businesses. Joseph Maryat believed in 1810 that the proposed Marine Insurance company would undoubtedly prove a failure. ‘But,’ he stated, ‘the proprietors, sheltered under that limited responsibility which is the great object of their present application to Parliament, would still have continued men of opulence: their carriages would still have rolled along the streets, and have splashed with mire the unfortunate individuals, who had been ruined by their insolvency as a company.’ For John Ramsay McCulloch, unlimited liability was a guarantee to the public trading with a company that the names involved with the company would behave conscientiously and honestly: because they faced unlimited losses, ‘the chances are ten to one that they will behave discreetly, fairly, and honourably.’ Limited liability, on the other hand, created ‘a fortress whence speculators of all sorts may sally forth to prey upon the public, and to which they may safely retreat if their forays fail of success.’ According to a Select Committee of 1844, directors of companies which folded were not stigmatised by their failure: rather, they could, by ‘availing themselves of the general impersonal designation of Companies, start others equally objectionable’, without the knowledge of the public. Edward Cardwell, a Peelite, thought that debtors could exploit limited companies in order to shirk their responsibilities. All a man owing large sums had to do was establish a limited company, pay off his old creditors with money obtained from new ones, and when the concern failed, the creditors who had claims on the debtor’s whole fortune would be safely paid off, and the new ones would have no claim on him.

65 PD, second series, 11 (10 May 1824), c. 610.
66 Ibid., first series, 15 (14 Feb. 1810), c. 410.
68 Ibid., p. 13.
69 Select Committee on Joint Stock Companies, p. xii.
beyond the amount of his stake in the partnership, which, needless to say, would be negligible.  

For some, the only way to remoralise the company was to reintroduce a degree of personal responsibility on the part of directors. This would prevent them from hiding behind the company façade. These views were colourfully expressed in *City and Suburb*, Mrs Riddell's 1861 novel. The hero, Alan Ruthven, a well-bred but poor inventor, attempts to sell a device which makes rail travel safer to a string of railway companies, who all reject his invention. After a particularly bad rail accident, Ruthven expresses the view 'that if on the occasion of every railway accident a director were hung, the directors either drawing lots or taking it in rotation, there would soon be none but unavoidable accidents'.  

Such an extreme solution was merely the product of the frustration caused by the irresponsible trading joint stock companies were widely thought to promote.

**Benevolent Traders**

In the face of these criticisms, companies did their best to claim the moral high ground for themselves. This was an economic necessity, for to distinguish themselves in the market from existing traders, they had to make great claims for their goods and services. But the ostentatious public-spiritedness of companies was a subject of much criticism. Writing at the height of the promotion boom of 1807, a correspondent of the *Morning Chronicle*, calling himself 'A Plain Dealer', complained, 'They are all for the public good — all to reduce the price of the commodity — all to give you that *genuine* which is now *adulterated* — all to destroy monopoly, combination, forestalling, regrating, and other monstrous mischiefs, to which the poor deluded people of London are now subject'. During the later boom of 1824-5, Francis Burdett stated in the Commons that he 'looked with extreme suspicion at those companies where there was a pretence of benevolence mixed up with them. There was a kind of benevolent trading about them which he did not like: 'An Old Merchant' grumbled that companies trumpeted their concern for the public good 'in many a well-turned paragraph', and portrayed their opponents as greedy, selfish, and opposed to the public interest. He held that these arguments were a cover for the promoters' own self-interest, and asked 'Have they

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72 *Morning Chronicle*, 16 Nov. 1807, p. 2.
73 PD, 10 (25 May 1824), c. 857.
really persuaded themselves that it is the pure love of their country that prompts their
industry?75

Edward Bulwer Lord Lytton’s popular novel *The Caxtons*, originally serialised in
Blackwood’s *Edinburgh Magazine*, satirises the altruistic claims of joint stock enterprise in
the character of Uncle Jack. Jack is the ultimate benevolent trader, ‘who had spent three small
fortunes in trying to make a large one.’ We are told that ‘in all his speculations he never
afflicted to think of himself, — it was always the good of his fellow-creatures that he had at
heart’.76 In this spirit he established successively the ‘Grand National Benevolent Clothing
Company’, using steam power ‘to supply the public with inexpressibles of the best Saxon
cloth’, the ‘New, Grand, National, Benevolent Insurance Company, for the Industrious
Classes’, which would ‘rais[e] the moral tone of society’, and pay 24½ per cent, and the
‘Grand National anti-Monopoly Coal Company’, to destroy the monopoly of the London
Coal Wharfs and to yield dividends of 48 per cent.77 He argues that ‘England could not get
on’ without ‘a little philanthropy and speculation.’78

The early chapters of Dickens’ *Nicholas Nickleby* present a similar satire. We see a
public meeting held by the promoters of a new joint stock concern, the United Metropolitan
Improved Hot Muffin and Crumpet Baking and Punctual Delivery Company. The directors of
the company attack the existing combination between private traders to keep up the price of
muffins. The company had been formed in the public interest in order to break this
combination. At the meeting, one of the directors made a speech

which drew tears from the eyes of the ladies, and awakened the liveliest emotions in every individual present.
He had visited the houses of the poor in the various districts of London, and had found them destitute of the
slightest vestige of a muffin... He had found that among muffin-sellers there existed drunkenness, debauchery,
and profligacy, which he attributed to the debasing nature of their employment as at present exercised; he had
found the same vices among the poorer class of people who ought to be muffin consumers; and this he attributed
to the despair engendered by their being placed beyond the reach of that nutritious article, which drove them to
seek a false stimulant in intoxicating liquors.79

Companies paraded their benevolence, and also their use of new and exciting
technologies. It was by harnessing these new technologies that companies would out-perform
existing traders and thus benefit mankind, but such claims engendered much scepticism. One
merchant argued that there existed: ‘a vague, indefinite, and feverish expectation of

75 Ibid., p. 54.
77 Ibid., pp. 24-6.
78 Ibid., p. 34.
79 Charles Dickens, *The Life and Adventures of Nicholas Nickleby* [1839] (Hertfordshire: Wordsworth, 1995),
pp. 20-1.
magnificent results to be produced by the advance of science...we gaze at the bright vista which we fondly believe is opening before our eyes, of interminable prosperity and unimagined greatness, until we grow giddy with its brilliance. Joint stock companies pandered to these delusions, and the boasts made by company promoters on behalf of the new, often unproven, technologies they were employing were easily and regularly satirised. Edward Stirling’s topical 1845 farce The Railway King! concerns the speculator Bob Shirk and his efforts to promote a ‘magnificent national undertaking, that must benefit all mankind! The Great Universal Chinese North Pole and New York – making Europe, Asia, and America into one snug family.’ Shirk outlines the gains to society which will ensue from the company: ‘Ice from the Pole – bird’s nests from China – and buffaloes’ humps and canvas-backed ducks from America.’

George Henry Lewes’ 1851 play The Game of Speculation, starring the swindler Affable Hawk, makes similar points. One of Hawk’s schemes is the ‘Conservative Pavement’ – ‘a pavement upon which and with which barricades are impossible!’ It is ‘the most brilliant invention – a speculation so grand...which was certain to realize gigantic profits’. He enthusiastically outlines his project to a potential investor: ‘You see, all the Governments interested in the maintenance of order become at once our shareholders. Kings, princes, ministers, form our committee, supported by the banker lords, the cotton lords, and all the commercial world. Even the very Republicans themselves, finding their chance ruined, will be forced to take my shares, in order to live!’ In Tom Taylor’s play, Still Waters Run Deep, the fraudulent promoter Captain Hawksley tries to interest the sceptical John Mildmay in his latest venture, the Galvanic Navigation Company. Galvanism, Mildmay is informed, will ‘strangle steam in the cradle’. The Company’s ships, leaving from the west coast of Ireland, will outperform their steam-powered rivals, and Liverpool, Bristol, and Hull will all be ‘destroyed’.

Such grand claims were also satirised in cartoons. This print by George Cruikshank, published in July 1825, offers a sceptical view of the schemes of that year.

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80 Anon., Remarks on Joint Stock Companies, p. 45.
The schemes are depicted as bubbles, rendered in this instance as balloons, jostling in the skies over London for our attention. This is an age when normal means of transport have been eliminated and man’s genius enables companies to convey passengers cheaply around the capital in balloons. These include the ‘Patent Safe High Flyer To Halifax’, and ‘The Sky Rocket Pleasure Balloon’. We also see a row of company offices, and these include the ‘Office of the Honorable Company of Moon Rakers’. But this is not a celebration of technological advance: the wonders are presented as on the verge of collapse. One of the cab balloons in the foreground is deflating, while one of the airborne balloons is sinking rapidly, its passengers tumbling to the ground. Furthermore, the row of company offices is propped up by struts and seems liable to crumble at any minute. The beneficiaries of this new age are not the customers or investors in these ‘lofty projects’, but the rescue balloons, one of which is marked ‘Royal Humane Society For Catching Falling Persons’, and another balloon which supports a large box marked ‘New Lunatic Asylum’.  

A similar view of modern schemes was offered by William Heath’s 1829 cartoon, ‘March of Intellect’, subtitled, ‘Lord how this world improves as we grow older’.

The scene is dominated by a huge tube marked 'Grand Vacuum Tube Company Direct to Bengal'. In the distance, a huge suspension bridge connects Bengal to Cape Town. The rest of the scene is taken up with similarly outlandish inventions, such as a steam-powered boot polisher, a steam razor, and various flying machines.\textsuperscript{85} As with Cruikshank's cartoon, we are left in some doubt, to say the least, as to the viability of these schemes. In both, the sheer number of inventions means that they have to compete with one another for space and for our attention. The density of schemes is such that it takes several minutes for the viewer to take them all in: the effect is initially bewildering. This method of presentation suggests the apprehension with which many contemporaries regarded the profusion of such joint stock projects, which were formed in the periodic waves of company promotions in the first half of the century. In these phases, company adverts competed for space in the columns of daily newspapers, and the share lists swelled. These booms engendered great astonishment. McCulloch surveyed the range of companies promoted in 1836 with some incredulity: 'There are companies for every sort of undertaking...for the manufacture of cottons, for tanning, for the manufacture of glass, pins, needles, soap, turpentine, &c., for dealing in coals, for raising

\textsuperscript{85} Ibid., xi, pp. 150-2.
sugar from the beet root, for making railways in Hindustan, for the prosecution of the whale fishery, and so forth!'86

As McCulloch’s comments suggest, for many the idea of joint stock companies conducting ordinary domestic trades was ridiculous. This was not merely because of their spurious claims of benevolence and mastery of science, but because of their inherent flaws which made it impossible for them to compete successfully with private enterprise. Benjamin Disraeli mocked the phenomenon of respectable gentlemen entering trades which hitherto had ‘scarcely repaid a few harmless and hardworking individuals in the lowest class of life’.87 He mercilessly ridiculed those ‘noble bakers...right honourable milkmen...people who require a million sterling for the construction of a French roll, and dare not approach the cow’s heels without the advice of a solicitor’.88 The European Magazine thought the idea of a joint stock association ‘selling fish or measuring out a pint of milk’ in competition with private traders was ‘an absurdity which could not have gained admission into the head of the most unreflecting, had not the rage for speculation overpowered the dictates of common sense.’89 John Hobhouse, the Radical, opposed the Equitable Loan Bill of 1824, for if the bill were passed, ‘there was no reason why joint-stock companies of butchers or bakers should not be established’: a scenario which Hobhouse clearly found absurd.90 During the passage of the Metropolitan Fish Company Bill through Parliament, John Calcraft, the prominent Whig MP, told the House that ‘If Lord George Seymour, Mr Mocatta, and other respectable persons chose to become fishmongers, he could have no possible objection; but he felt a strong objection to their uniting for the purpose of ruining the poor but honest and industrious individuals’ already trading.91 Such views persisted through the first half of the century. A merchant testifying before a Select Committee established to investigate the joint stock company frauds of the 1830s deemed that ‘no joint stock company ought to be allowed to be established for a comparatively trumpery undertaking, such as a bakers’ company, a shoemakers’ company, a watchmakers’ company, or a bitumen company, of which there have been so many specimens which have been some of the most swindling concerns in London.’92 William Jerrold and W. H. Wills’ humorous story, ‘Provisionally Registered’, details the getting up of the Patent Corkscrew Company, to produce a new kind of corkscrew ‘that drew a cork with the daintiest twirl of the tiniest lady’s finger.’ The scheme was one,
according to Rigging, its promoter, 'the importance of which was so great, that it could not be fully carried out by any private individual. A public company was the only expedient conceivably practical'. 93

Negligence and Profusion

The ridicule to which the invasion by joint stock companies of the proper sphere of private enterprise was subjected was not simply the result of ill-founded prejudice. This scorn stemmed from the belief that the operation of joint stock companies was perverting some of the basic tenets of political economy. The advocates of joint stock enterprise did so in the name of 'commercial freedom' 94 and the 'liberal principles of political economy', 95 but many felt that Adam Smith's name was being taken in vain. Company promoters' grasp of Smith's doctrines was called in question, as in William Aytoun's story, 'How We Got Up the Glenmutchkin Railway, and How We Got Out of It', published in Blackwood's Edinburgh Magazine. The creator of the dubious scheme, Bob M'Corkindale, we are told, 'had once got hold of a stray volume of Adam Smith, and muddled his brains for a whole week over the intricacies of the Wealth of Nations'. 96 Political economists were dismissive of the claims of their opponents. McCulloch stated that arguments for unlimited liability had 'as much in common with monopoly as they have with the theory of the tides'. 97 Lord Overstone complained that politicians were endeavouring 'through the most flimsy sophistry' to associate limited liability with free trade, 'matters which have the same relation to each other which Darkness has to light'. 98

Indeed, there was little in Smith's work to encourage those who wanted to see the expansion of joint stock companies throughout the economy. Smith had been unequivocal on joint stock companies. 'To establish a joint stock company', he wrote, 'for any undertaking, merely because such a company might be capable of managing it successfully; or to exempt a particular set of dealers from some of the general laws which take place with regard to all their neighbours...would certainly not be reasonable.' The establishment of such companies,

93 'Provisionally Registered', Household Words, 7 (9 Jul. 1853), p. 446.
97 McCulloch, Considerations on Partnerships, p. 27.
he continued, could 'scarce ever fail to do more harm than good.' The fundamental reason for this lay in the constitution of these companies. Directors being the managers rather of other people's money than of their own, it cannot well be expected, that they should watch over it with the same anxious vigilance with which the partners in a private copartnery frequently watch over their own...Negligence and profusion, therefore, must always prevail, more or less, in the management of the affairs of such a company.

In their *Annals of Commerce*, Macpherson and Anderson held that the joint stock company 'is never so frugally managed as private adventurers manage their own money.' The views of Smith, Macpherson, and Anderson, frequently rehearsed in newspapers, select committees, pamphlets, and elsewhere, held sway long into the nineteenth century. A correspondent of the *Morning Chronicle* argued that companies 'are seldom well managed. The directors having a distinct and separate interest from the Proprietors, the affairs of the company are generally administered, either with negligence or extravagance; sometimes with a mixture of both.' Others agreed. Directors had control of vast sums of money only a fraction of which was their own; their main concern would therefore be to secure as much of this money to themselves as payment for their services as they could. The political economist Thomas Tooke held that 'according to all recorded observation, public companies are rarely, if ever, so carefully, economically and skilfully conducted as private establishments.' The Birmingham manufacturer and Radical MP George Muntz agreed: 'No company could command that decision of purpose, that untiring exertion, and that concentrated power which an individual, whose sole interest was at stake, could always display.' McCulloch thought that in small partnerships, each partner was 'fully alive to his responsibility' and 'exerts himself to obviate extravagance or mismanagement in the conduct of the business, and to make it a source of profit.' This attentiveness did not characterise great associations in which individual members felt that their efforts were likely to have little influence or effect, and carelessness shaded into recklessness and foolhardiness when the business was carried on with limited liability and therefore limited risk. To try to bring the interests of managers and owners closer together, proposals to replace managers' salaries with shares of the profits

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100 Ibid., p. 741
102 'An Old-Fashioned Fellow', *Morning Chronicle*, 9 Nov. 1807, p. 3.
105 McCulloch, *Considerations on Partnerships*, pp. 5-6.
were sometimes made. But the division of interest between the two groups remained an intractable problem.

Many of the more ambitious joint stock entrepreneurs did not restrict themselves to one enterprise at a time. At the height of the enthusiasm for shares in 1825, *John Bull* published a list of 129 men who were directors of more than three companies. The paper thought it was impossible that these men could do justice to the schemes on which they had embarked. Such practices were widely frowned upon. If capitalists were getting up several schemes at the same time, it was asked, how could they conduct them so well as 'the industrious, careful and knowing individual who was bred to the business, and who pursues it for the maintenance of his family?' Directors tended not to be educated in the business and had not served apprenticeships, so that 'companies are for the most part a sort of gentlemen trading, which must succeed much to the same degree as gentlemen farming or the trade of an amateur builder or lawyer.'

Expenditure was less likely to be controlled if managers were conducting several enterprises simultaneously, the capitals of which were provided by other people. The improvidence began at the very inception of these companies: in the prospectus, 'every thing is to be grand, sweeping, magnificent, *imposing*.' This extravagance in conception turned into extravagance in practice. In opposing the Marine Society Fishery Bill, George Peter Moore, MP for Queenborough, gave a humorous account of what would happen should the bill pass into law. He had

no doubt but the plan would be speedily extended by subscriptions; that very speedily a board of 24 directors would be found necessary, who would not like to act without ample salaries; that a house like the India House, or the South Sea House, would be found necessary for their operations, with appropriate officers, secretaries, and clerks; and, in a little time, so far from reducing the price of fish would their scheme be found, that they must sell every sprat they could catch at the price of a turbot, in order to defray their expenses.

Extravagance was viewed as inherent to joint stock enterprise, partly due to the division of ownership and control, partly due to the importance of display to these companies. To illustrate this second point, David Morier Evans took the case of colonial joint stock banks. The managers of these banks, 'when so far away from the eye of their employers, have not been particularly scrupulous in using the cash of the bank.' When the manager of a Sydney

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107 See for example, Anon., *The Real Del Monte Mining Concerns Unmasked, and a Few Facts on Stock Jobbing Schemes, With a View to Prevent the Public from Becoming the Dupes of Self-Interested Speculators and Adventurers* (London: Cochran and M'Crone, 1833), pp. 10-11.
109 'A Plain Dealer', *Morning Chronicle*, 16 Nov. 1807, p. 2.
111 John George, *View of the Existing Law*, p. 57.
112 PD, first series, 1 (27 Mar. 1803), c. 1053.
bank was discovered to be in arrears, he made the excuse that the style of living required to keep up the credit of the establishment in competition with neighbouring concerns, could not be met by his salary.\textsuperscript{113} The railway mania of 1845, Evans believed, provided further evidence of the extravagance of companies. The mania was a boon for upholsterers, due to the number of board rooms and secretary’s offices which needed to be furnished. As payment came from deposits, no expense had been spared: ‘Turkey carpets and easy chairs are not considered luxuries’ in these cases.\textsuperscript{114}

In private enterprise, extravagance spelt ruin. But with joint stock enterprise, the rules were reversed. Rather than prudence and economy, show and display were thought to be necessary for the success of a joint stock company because it was by these means that it won the trust and confidence of the public. \textit{The Times} wrote that it was common practice for companies ‘to give great entertainments to inquisitive neighbours, and to dazzle their minds by a great display.’\textsuperscript{115} Edward Howard’s play of 1870, \textit{True Forgiveness}, concerns the fraudulent Land Company of Algiers, a bogus scheme whose main purpose is to purchase vast tracts of land in Algiers from one of the company’s promoters at a vastly inflated price. The schemers behind the company have learned that

\begin{quote}
The more we spend on offices and fees; 
Lawyers, Surveyor’s bills, a mile in length; 
Acres and acres of advertisements; 
The more we pay contractors, and delay 
Closing accounts, the richer we shall be.
\end{quote}

This was because ‘The faster we can spend the more we’re trusted.’\textsuperscript{116}

The same point had been made by Marx five years earlier. Stressing the role credit played in modern capitalist enterprise, Marx argued that abstention and prudence no longer characterised the behaviour of the speculating trader, for his very extravagance ‘becomes a means of credit.’\textsuperscript{117} Men no longer traded with their own capitals. ‘The actual capital that someone possesses, or is taken to possess by public opinion, now becomes simply the basis for a superstructure of credit.’\textsuperscript{118} It was now absurd to say that the origin of capital was saving, ‘since what this speculator demands is precisely that others should save for him.’\textsuperscript{119}

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\footnotetext[113]{[Evans], \textit{The City}, p. 17.}
\footnotetext[114]{Ibid., p. 200.}
\footnotetext[115]{\textit{The Times}, 22 Mar. 1844, p. 4.}
\footnotetext[116]{Dr Edward Howard, \textit{True Forgiveness: A Drama in Three Acts (Illustrating the Commercial Crisis of 1866)} (London: Thomas Hales Lacy, 1870), p. 21.}
\footnotetext[118]{Ibid.}
\footnotetext[119]{Ibid.}
\end{footnotes}
The speculator himself did not have to be frugal; indeed, parsimony would be fatal to the aim of building credit.

But, paradoxically, while business conducted on a grand scale encouraged public trust, it rendered profit-making more difficult. It was held to be axiomatic that it was more difficult to make a profit from a large stock than from a small one. Large profits, argued *The Times*, 'are not consistent with large amounts of capital. It is in the nature of small capitals and adventures to produce the greater returns...The very large capitals of companies are incompatible with the realizing of a great per centage of profits, and in the endeavour therefore to multiply simply the large returns of private traders...they attempt to defeat an essential principle in regard to the employment of capital.'\(^{120}\) Large stocks encouraged complacency and inefficiency. Successful businessmen 'must be able to condescend to little details of business, to little sums, and to little things...Great amounts of profit are made up of little sums...But the capital of a company being so magnificent a sum, and the directors being such gentlemen, and used to look at such large figures, they cannot give attention to the little things'.\(^{121}\) Boards of directors could not 'act with the energy and promptitude of individual traders',\(^{122}\) reasoned *The Times*; 'their operations can no more be conducted with the economy of private concerns than can those of a Government.'\(^{123}\) The joint stock system was 'applying the machinery which is suited only to new, and simple, and large operations, to old, and puny, and to intricate ones - what is practicable only with a kingly and equestrian monopoly, to the pedestrian competition of every day trade.'\(^{124}\) Disraeli was adamant that the grandeur of companies meant that they 'cannot sell, or work, cheaper or better than an individual'.\(^{125}\)

As a result of these flaws, it was widely believed that 'no Joint Stock Company can be necessary or ought to be admitted, where the business which it proposes to transact, is within the grasp of private capital and individual management.'\(^{126}\) Companies were only suitable for trades which could be reduced to a routine, which required great capitals, and which were of undoubted public utility. For Smith, there were only four areas of the economy in which all three criteria were met: banking, insurance, canals, and waterworks. Eighty years on his influence was still great: in 1856, for example, McCulloch argued that limited liability was suitable only for those undertakings which could be conducted on a routine system, among which he included railways, docks, gas and waterworks, banks, and insurance offices.\(^{127}\)

\(^{120}\) *The Times*, 9 Nov. 1840, p. 4.
\(^{121}\) Ibid., 21 Oct. 1840, p. 4.
\(^{122}\) Ibid.
\(^{123}\) Ibid., 9 Nov. 1840, p. 4.
\(^{124}\) Ibid., 21 Oct. 1840, p. 4.
\(^{125}\) [Disraeli], *Lawyers and Legislators*, pp. 27-8.
\(^{126}\) 'A Plain Dealer', *Morning Chronicle*, 5 Nov. 1807, p. 3.
\(^{127}\) McCulloch, *Considerations on Partnerships*, p. 4.
Companies were widely perceived to be useful, but only in their proper sphere. Lord Eldon told the Lords, ‘He was no foe to joint-stock companies if they were for proper purposes, and under due provisions. There were many great national objects which could be accomplished by no other means, and which were fairly entitled to the privileges of a charter, or of an act of parliament.’ But, argued one broker, the establishment of companies in trades able to be conducted by individuals could only ‘be attributed to some sinister motive of the projector.’ No one denied that joint stock companies had their uses, but their numbers, scope, and powers had to be carefully controlled.

*Unwholesome Competition*

Disraeli, writing in 1825 in favour of foreign mining companies, in which he had invested heavily, was scathing of the prospects of domestic companies: ‘Such things should be treated with a sneer, and they would soon wither.’ But others were not so sanguine. *The Times* thought that ‘private trade and enterprise are the life and support of a country, its strength and riches; and joint-stock companies are but occasional remedies, powerful and efficacious in certain disorders and contingencies, but destructive, debilitating, and disorganizing, when used as food, and applied habitually.’ For McCulloch, limited companies in ordinary trades were ‘unmixed nuisances. If honestly conducted they must fail in their competition with private parties; and if otherwise they will only add to the means, which are already sufficiently extensive, of wasting capital and fleecing the public.’ Although the belief that such companies would, due to their inherent failings, ultimately fail was widely held, the damage they would do to the economy on their way to failure was regarded with some apprehension. The partnership system operating under unlimited liability was held to be the best way to regulate demand and supply, and to guarantee sufficient competition to ensure a cheap product to the consumer. Where profits were high, more traders would be attracted, resulting in more competition, and therefore, lower prices. Where profits were low, traders would look elsewhere, and there would be no overproduction. All traders were exposed to the same risks, all had the same prospect of gain, none had favours from the state. But joint stock companies, especially those with limited liability, upset this natural order by giving an unnatural encouragement to trade. That the prospect of unlimited gain should be balanced by the possibility of unlimited loss was of more than moral interest: if risk were lessened, and

128 PD, second series, 13 (27 May 1825), cc. 901-2.
129 English, Complete View, p. 32.
130 Disraeli, Lawyers and Legislators, p. 28.
131 Ibid., 9 Nov. 1840, p. 4.
responsibility curtailed, the normal working of the rules of demand and supply would be undermined, to the detriment of the community.

Lessening fear of failure would remove the natural check in the system to overtrading and speculation. Marx advanced the argument that capitalism was tending towards overproduction and excessive speculation because of the divorce which existed in joint stock enterprise between ownership and control. Those in control of other people’s capital ‘proceed quite unlike owners who, when they function themselves, anxiously weigh the limits of their private capital.’\(^{133}\) The ‘swindling and cheating with respect to the promotion of companies, issue of shares and share dealings’ which ensued was the result of a system of ‘private production unchecked by private ownership.’\(^{134}\) Marx was far from alone. Years earlier, one merchant had argued:

The fear of injuring his fortune, the whole of which may be involved by an indiscreet engagement, causes the merchant, the manufacturer, or the agriculturalist, to exercise a caution, before he orders an additional bale of goods to be imported, a new engine to be raised, or a fresh spade to be put into the ground, most salutary for the public weal; but where, I would ask, in the whole constitution of these Joint Stock Companies is such a motive for caution to be found?\(^{135}\)

In all joint stock schemes, there was ‘scarcely to be found a man amongst their promoters, who cares a straw for their ultimate success, or who had not some object to serve independent of it’. As a result, these men showed a ‘total want of responsibility’ and plunged on, ‘with an absolute recklessness of consequences’.\(^{136}\) If limited liability were made more freely available, trades which were currently conducted to the healthy profit of individual businessmen would be invaded by companies established by speculators jealous of these profits, who hoped they would be able to earn similar returns, and knew that their losses should they fail would be restricted. The prospect of unlimited gain with limited risk was sufficient to tempt large amounts of capital into channels already naturally full. ‘Stoke would have a dozen new potteries; Nottingham and Leicester would double their preparations for lace and stockings’.\(^{137}\) Boards would be constituted, subscriptions opened, works constructed, all in expectation of, rather than in response to, demand. Such companies would eventually fail, but only after they had caused severe damage to existing traders by exposing them to artificial and ‘unwholesome’ competition and glutted the market, as ‘the farce of supply

\(^{133}\) Marx, *Capital*, iii, p. 572.

\(^{134}\) Ibid., p. 569.

\(^{135}\) Anon., *Remarks on Joint Stock Companies*, p. 64.

\(^{136}\) Ibid.

before demand [was] turned into a tragedy. The Times agreed. Companies could not outperform individual enterprises fairly, so they would use their large capitals to undercut their rivals. Their influence was destructive; they lowered profits ‘below a remunerating amount’, thus ruining their rivals ‘by their miscalculated competition’.

When large companies sought special powers from the state, such as limited liability, or the power to sue and be sued in the name of an officer, the livelihood of existing businesses which traded without these special powers was unfairly jeopardised. Unemployment would ensue, a potent prospect in the early nineteenth century, particularly in the post-1815 depression when the state was expending large sums annually by means of the Exchequer Bill Loan Commissioners to provide employment. As a result, the public interest was threatened. If the state granted these powers, it would be encouraging not competition, but monopoly. John George opposed the grant of powers of suing and being sued to any company engaged in a domestic trade in competition with individuals, viewing the legal inconveniences faced by companies as a natural protection for individual enterprise. George stressed the unreasonableness of such demands:

The Joint Stock Company is, in substance, saying — “We, by means of our great capital, shall be able to supply you with milk, or garden stuff, or fish, at a lower price than the ordinary milkman, market gardener, or fishmonger can afford them to you for. But from our very numbers we are exposed to some natural and necessary inconveniences in the bringing of actions, which we will thank you to remove, in order that we, who are a giant, may the more successfully oppose and drive out of the market the common tradesman, the little isolated dealer, who is working to support himself and his family by his individual exertions.”

The monopolistic tendencies of companies were in the forefront of many minds in the early to mid-nineteenth century. Legislators were particularly wary of granting privileges, and the debates engendered by bills requesting such privileges provide an insight into contemporary attitudes to the effects of joint stock companies on the economy. MPs of all affiliations, and particularly Radicals, often voiced fears about the implications of the grant of special powers by the state to particular companies. Many held that the creation of companies with wide-ranging and exclusive powers was harmful to the public interest, and some likened these companies to those privileged and entrenched corporations whose power the reforming ministries of the 1830s were battling to reduce. Opponents of special privileges pointed to the harm these privileges did to the property of existing traders carrying on business without such privileges. In 1803 the Marine Society Fishery Bill was prevented from going into committee

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139 The Times, 9 Nov. 1840, p. 4.
141 John George, View of the Existing Law, p. 73.
because of parliamentary sensitivity to the rights of Billingsgate fishmongers. John Calcraft did not want to deprive ‘one of the most laborious and useful classes of men in society, their wives and children, of their means of livelihood’ simply to promote the interests of ‘any monopolizing company’.\footnote{PD, first series, 1 (27 Mar. 1803), cc. 1048-9.} He compared the company to the recent London Flour Company, which also promised to lower prices, but which failed. This was because established, competing traders already ensured low prices to consumers. Several years later, the Metropolitan Fish Company Bill was opposed on identical grounds, with Calcraft arguing that the ‘effect of this and every similar company was, to take the bread out of the mouths of industrious individuals’. He was backed by Sir Joseph Yorke, Tory Vice-Admiral in the Royal Navy, who held that ‘it was extremely iniquitous to interfere with the hard earnings of a class of persons whose calling was honourable.’\footnote{Ibid.}

The Equitable Loan Society Bill was opposed on the grounds of the threat the company would pose to pawnbrokers. William Whitbread ‘looked with great jealousy at the combination of gentlemen to destroy the trade of individuals.’\footnote{Ibid., second series, 10 (1 Jun. 1824), c. 960.} John Monck, MP for Reading, contended that ‘the object of the speculators was, to monopolize the profits which the Jews at present enjoyed.’\footnote{Ibid.} Applications by marine insurance companies for bills were opposed in order to defend Lloyd’s insurance brokers. Joseph Marryat, independent MP for Horsham, and himself a Lloyd’s underwriter, led the opposition to the Marine Insurance Company’s bill for incorporation in 1810 because he feared ‘this great leviathan will swallow up all the small fry...it will deprive the insurance brokers and underwriters of those avocations to which they have devoted their time, in which they have embarked their fortunes, and by which they have maintained themselves and their families’.\footnote{Anon., _Observations on the Manner of Conducting Marine Insurances in Great Britain; and on the Report of the Select Committee of the House of Commons_ (London: Gale and Curtis, 1810), p. 20.} An anonymous pamphleteer argued that if a marine insurance company comprising three-quarters of the principal merchants of London were created, the remainder would ‘labour under so great disadvantages, compared with such a company, as to be altogether unable to maintain the unequal contest against capital and influence.’\footnote{PD, second series, 10 (28 May 1824), c. 929.} The Marine Insurance Bill of 1824 was opposed on similar grounds, with William Thompson arguing that the measure ‘would produce severe injury to 3,500 brokers and underwriters.’\footnote{Ibid.}

Such views were regularly voiced in the first half of the century. Joint stock companies, argued ‘An Old-Fashioned Fellow’, were a ‘commercial nuisance’ which acted
‘to the discouragement of industry’. The *Weekly Dispatch* argued that ‘it should be a leading principle with Parliament, never to give its sanction to any plan, by which numerous bodies of men propose to carry on any trade or business, which it is in the power of individuals to carry on; because every plan of that kind operates as a direct injury to the little traders, and leads to monopoly and extortion.’ Sir William Rawson, though supporting the foreign mining schemes of 1824-5, opposed the ‘indiscriminate adoption’ of joint stock companies in Britain as ‘they frequently do much harm, by overwhelming, with their large command of capital, the honest and industrious tradesman, and by tending to create mischievous monopolies.’ Much later, the free trader and pamphleteer Edmund Phillips argued that limited liability allowed groups of individuals to compete with regular merchants or traders on unfair terms:

If limited liability were generally available, this would create ‘a host of little monopolies, to swallow up the small and industrious traders, and to derange the whole course of business.’ These companies would have the effect of ‘making serfs of’ small traders. The Liberal MP Samuel Gregson argued along similar lines, holding that ‘limited liability would set up a new class of petty monopolists’.

The interests of these small traders were inextricably linked with the public interest. Driving such traders out of business would leave consumers at the mercy of combinations of capitalists. John George was by no means sure that once a company had ruined all competing traders, ‘forcing them to become your journeymen or to apply to the parish for relief or to starve’, the company would ‘continue to supply us with your commodities at the same prices as before you got rid of your competitors.’ Some talked of ‘the serious and infallible ruin that this new rage for great Companies will bring on the nation.’ They were ‘of the same character of the monopolies and exclusive privileges which were granted, or rather sold by the

149 ‘An Old-Fashioned Fellow’, *Morning Chronicle*, 9 Nov. 1807, p. 3.
150 *Weekly Dispatch*, 20 Mar. 1825, p. 22.
153 Ibid., p. 35.
154 PD, third series, 139 (9 Jul. 1855), c. 643.
Stuarts in the latter part of their dynasty', and were ‘baneful to the community at large’.\textsuperscript{156} Tooke argued that the advantages of trading with limited liability over common partnerships were so great that if made too easily available, limited firms would eventually supersede private partnerships altogether. Advocates of the principle claimed this was proof of its necessity and desirability, but ‘the privilege would operate as a distinct inducement to individuals’ to adopt a form of business ‘which in its tendency might be less advantageous to the general interests of the trade than that which it superseded.’ In effect, the privilege would ‘operate in the way of a premium sufficient to induce a use of the inferior, instead of the better instrument, for carrying on the trade of the country.’\textsuperscript{157}

The public were better served by competition between small traders than by the monopolies which might result from granting special privileges. The speculators who formed companies did not have the public interest at heart. Marryat argued the principle of the Marine Insurance Company was

\begin{quote}
not competition, but combination; it even precludes all possibility of competition; for the proprietors tell you, that they possess nine-tenths of the commercial interest of the city of London, and that they wish to form themselves into a company, for the purpose of effecting their own insurances. Who then can wrest them out of their hands?\textsuperscript{158}
\end{quote}

An anonymous pamphleteer chimed with these views, arguing that the proponents of the company had used the public interest to justify their Bill, ‘as is usual on such occasions’. But ‘when the good of the commonwealth is to be advanced, only along with the private advantage of its promoters, there must always be room for much well-grounded suspicion.’\textsuperscript{159} By means of combination, the company would ‘forestall nearly the whole of the Marine Insurances of Great Britain’.\textsuperscript{160} In 1824, on the attempt of the Allied Assurance Company to enter the field of marine insurance, Alexander Robertson argued that a company thus formed would ‘eventually engross to itself all the underwriting of this great city’. Rather than protect the public from this combination, however, ‘his majesty’s ministers were disposed to lend too fond an ear to any suggestions coming from that mass of wealth which had been put in motion on this occasion.’\textsuperscript{161} He thought the Bill, far from breaking down monopoly, ‘would more than ever promote it, by condensing the power of money capital, and placing the public interest at the entire disposal of the wealthy.’\textsuperscript{162}

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\textsuperscript{156} 'A Plain Dealer', \textit{Morning Chronicle}, 5 Nov. 1807, p. 3.  \\
\textsuperscript{157} \textit{Report on the Law of Partnership}, p. 34.  \\
\textsuperscript{158} PD, 15 (14 Feb. 1810), cc. 415-16.  \\
\textsuperscript{159} Anon., \textit{Marine Insurances}, pp. 5-6.  \\
\textsuperscript{160} ibid., p. 7.  \\
\textsuperscript{161} PD, second series, 11 (28 May 1824), cc. 932-3.  \\
\textsuperscript{162} Ibid., (3 Jun. 1824), c. 1087.  \\
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Similar fears were expressed regarding other bills. For Hiley Addington, younger brother of the Prime Minister, the Marine Society Fishery Bill would transfer profits away from industrious individuals, and 'leave the community at the mercy of a monopolizing company.' The Metropolitan Fish Company Bill of 1825 was opposed on similar lines. John Grant, the Whig lawyer, 'thought that the House could not do any thing more injurious to the regular supply of the market, than to give a chimerical company advantages which were not possessed by the regular fishermen.' Calcraft argued that the public 'would derive no benefit from these companies, as they already procured fish at as cheap a rate as the nature of the commerce would allow.' On the Equitable Loan Company Bill of 1824, John Hobhouse, said 'The real object of the promoters of the Bill was private profit, and by that profit the public would be losers.' When, in the following session, the Bill reached the Lords, Lauderdale stated that he 'could not concur in the assertion, that joint stock companies encouraged competition. So far from it that he thought the direct effect of them was to destroy all competition and to bring the most ruinous consequences upon trade.' Several MPs opposed the West India Company's Bill the previous year on the grounds that its enormous capital would enable it to crush its rivals. Sykes 'disliked the command which the accumulation of so large a capital as four millions would give the company over the West-India trade...What individual merchant could compete with a company possessing four millions of capital?' Thomas Whitmore, MP for Bridgnorth, claimed that the Bill would 'establish a baneful monopoly'.

The third reading of the St. George's Steam Packet Company's Bill in 1833, which granted extra privileges to the company, including that of increasing its capital, revealed a deeply-held belief that the state had a responsibility to limit the capital, and therefore the scale and power, of joint stock companies in order to protect the public from over-mighty, monopolistic corporations. The Radical Fergus O'Connor opposed the Bill. For O'Connor, the measure was inconsistent with the Government's commendable battle against corporations. Steam packet monopolies already working other lines kept freight charges artificially high. The House should not encourage similar monopolies, especially now, 'just at the time when the House was doing away with other corporations. This Bill did, in fact, go to establish a corporation on the high seas.' Lord Sandon interjected, saying, 'It is a Joint Stock Company.' O'Connor retorted, 'Whatever it might be called, it was in effect a 163 Ibid., c. 1050.  
164 Ibid., 12 (9 Mar. 1825), c. 966.  
165 Ibid., (15 Mar. 1825), c. 1021.  
166 Ibid. 10 (1 Jun. 1824), c. 960.  
167 Ibid., 13 (14 Jun. 1825), c. 1135.  
168 Ibid., 11 (10 May 1824), c. 610.  
169 Ibid., c. 612.
Major Aubrey William Beauclerk, Radical MP for Surrey East, echoed O'Connor and thought it 'extraordinary, that this Bill should now be pressed forward, at a time when the House was anxious to do away with all monopolies. He therefore, hoped that Honourable Members who were opposing monopolies would not give their sanction to this Bill. Another Radical, John Jervis, subsequently Attorney-General, thought it was the duty of the House to 'protect the public, and take care the public should have as cheap and expeditious a conveyance from one part of the country to another as possible.' The company in question was an 'unnatural coalition' of shipowners who had joined together as shareholders in order to obtain special privileges from the House, in order to ruin other Companies and to deny the public cheap and safe transport. These views were not just held by Radicals. Anthony Lefroy, a Tory, 'objected to the Bill as giving to the Company a much greater capital, and consequently, reducing the scope for competition, by which alone the public could be benefited.' The Whig Earl of Ormehie argued that the Bill was a monopoly, 'for the provision for suing and being sued was a privilege beyond the common law.' He continued that the 'object and the practice of the Company had been to throw out every competitor, and the parties now came to Parliament to enable them to perpetuate the system.'

Daniel O'Connell promoted Bills in 1833 and 1836 to grant the Dublin Steam-packet company limited liability, and the ability to increase its capital. James Emerson Tennent, a Conservative, told the House that his constituents, the merchants of Belfast, wanted him 'to look closely after the progress of this Bill, because they considered it to seek for powers which were subversive of the principles of free trade and honourable competition, and exemptions from liability which were incompatible with the security which the public had a right to possess with a great commercial body such as the present Company.' This Bill failed, but in 1836 the company renewed its efforts. George Frederick Young, chairman of the General Shipowners' Society, opposed the second reading of the Bill. 'The Bill went to give power to a Company that had already too much.' It was 'very unfair that this Steam Company was to have all the advantages of increased power and monopoly, while their rivals would be prevented entering into fair competition'. William Downe Gillon, a Radical, 'thought that a very unjust monopoly was intended to be established by this Bill. It was proposed to add large additional powers to those which had been formerly given. There was

170 Ibid., third series, 18 (19 Jun. 1833) c. 995.
171 Ibid., c. 996.
172 Ibid.
173 Ibid., c. 997.
174 Ibid., c. 996
175 Ibid.
176 Ibid., 18 (28 Jun. 1833), c. 1295.
177 Ibid., 32 (11 Mar. 1836), c. 205.
no asking how far this system of legislation should be carried.\textsuperscript{178} William Ewart, another Radical, argued ‘they would not be acting justly, if they allowed one Steam Company to possess advantages which were denied to others. He did not see why this company should have privileges which were not extended to all others’.\textsuperscript{179}

**Public Burdens**

The issue of competition with private traders was a major obstacle to the grant of corporate powers. But this did not mean that the creation of corporations in fields where they would not compete with small traders was entirely unproblematic. Here, the public interest was equally threatened, but in different ways. Normal rules of competition did not apply in the provision of services to a small captive market, for example. This became clear during the first intensive period of gas company formation in 1818-25. By 1821, gas companies were serving every town in the United Kingdom with a population over 50,000.\textsuperscript{180} But competition did not seem to be working. William Thompson asked the House to consider the effects of competition between such companies. ‘Had any good resulted in the numerous establishments of Water and Gas Companies? They became so numerous as to risque their ability to continue. And what was the expedient? They had portioned the metropolis into different districts, under a positive engagement not to interfere with each other; so that in the end the public were obliged to pay at a much higher rate than when the nominal competition was less.’\textsuperscript{181} An anonymous author contended that, ‘Up to a certain point such establishments will compete with each other to reduce prices. Beyond it, and if so many competitors are introduced that ruin impends over all, they will coalesce, and raise their rates’.\textsuperscript{182} The problem persisted, and in 1836, James Morrison, a Reformer, argued that even if two companies did enter into competition, they would soon work out an ‘understanding’ on prices. He quoted in support the example of ‘our Metropolitan Water Companies...After a fierce contention among themselves, they came to an agreement by which they parcelled the town into districts; and having assigned one to each company, they left it to obtain from the inhabitants the utmost it can obtain, and to profit, without let or hindrance of any kind, by the extension of this ever-growing metropolis! The public, too, is served not merely with a dear, but also with a bad article; and the probability of relief is perhaps more distant than it would have been had some of the companies not been established.’\textsuperscript{183} He argued that the public needed legislative protection from these entrenched monopolies which were acting against

\textsuperscript{178} Ibid., cc. 206-7.
\textsuperscript{179} Ibid., (19 Apr. 1836), c. 1187.
the public interest: some power should be retained in the hands of the Legislature 'when creating associations to which the ordinary principles of competition do not apply'.  

These issues were brought into sharp focus by the expansion of the railway infrastructure in the 1830s. The earliest railway acts had merely intended the recipient companies to build and maintain roads usable by all who were willing to pay a toll, much like the system of turnpike trusts in use since the 1660s. But this situation changed with the development of the locomotive engine and the railway companies became the sole carriers. It had been argued as early as 1831 that railway companies had become 'a sort of combination against the public'. Railway projects often ran disastrously over budget, and, in an effort to reduce their debts, directors would seek extra favours from Parliament such as the power of charging their customers higher tolls. Thus, schemes which were intended as public benefits, were 'converted into public burthens'. But the critique of railway companies became much sharper once their monopolistic nature became clear. 'A colossal monopoly, never contemplated by Parliament, nor even foreseen by the companies themselves, had come into being', argued Dionysius Lardner. This railway monopoly roused strong feelings. The *Illustrated London News* complained that the directors of the leading companies acted towards the public as they liked. 'They make their own terms because they know the public have no remedy.' Companies were bent on securing more than the ordinary rate of interest for their money, and the public were at their mercy. As middle-class indignation grew, demands for greater legislative control of railways increased. The *Illustrated London News* argued that as extravagant prices resulting from monopolies in corn were everywhere denounced, why should exorbitant rail fares be considered any differently. Lardner thought that, 'to suppose the indefinite continuance of an arbitrary power over the personal and commercial communications of the country, exempt alike from the operation of competition and legislative control, is an absurdity too palpable to be, by any one, seriously asserted. The fact that the state had granted this power meant that the state had a right to step in and adjust these privileges if such an action appeared to be in the public interest. For Morrison, competition was 'in ordinary cases the best protection of the public interests', but the railways did not represent such a case, so the state had to step in to regulate charges to the

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181 PD, second series, 11 (28 May 1824), c. 929.
182 Anon., *Remarks on Joint Stock Companies*, p. 82.
183 PD, third series, 33 (17 May 1836), c. 980.
184 Ibid., cc. 986-7.
186 [Dionysius Lardner], 'Railways at Home and Abroad', *Edinburgh Review*, 84 (Oct. 1846), p. 525.
188 Ibid.
189 Lardner, 'Railways', p. 529.
Companies were not created by their own unassisted efforts, but owed their existence to the state. They had been granted special privileges and powers almost without precedent. It was therefore impossible to argue that they should be free from interference. They were public bodies which involved substantial public interests, and how they exercised their powers was a public issue. Arthur Smith agreed, reasoning that 'the legislature having delegated certain powers to a corporation, surely, at all times has the power of inquiring into, and correcting any abuse of the power so granted.' The prolonged nineteenth-century debate over the necessary degree and nature of state regulation of railways has been well covered elsewhere, and need not be retold here. Rather, this debate needs to be placed in the context of wider views on the wisdom of the conferral of corporate privileges on joint stock enterprises as a whole. The issue of railway monopoly may have dominated by the 1840s, but railways were by no means the cause of the relationship in the public mind between joint stock companies and monopoly; the railways merely crystallised anxieties which had been felt for many years.

Conclusions

Underpinning the views outlined in this chapter was the conviction that if the joint stock principle was extended too far, British greatness would be jeopardised. In Parliament it was held that it was 'by the competition of individual exertions, that Great Britain has risen to her present unexampled height of commercial prosperity; and in proportion as that system is exchanged for a system of monopolizing combination, that prosperity will again decline.' In a similar vein, McCulloch thundered that it was not by 'shirking responsibility and evading the risks inseparable from all undertakings, that we attained to [sic] our pre-eminence in character, in wealth, and in manufacturing and commercial industry.' The adoption of a contrary system threatened to 'mark the era of our decline'.

In the light of these risks, it was the job of the state to filter out the good enterprises from the bad, and only to grant privileges not enjoyed by the community at large when these were clearly in the public interest. Marryat argued that

190 PD, third series, 33 (17 May 1836), cc. 979-980.
191 Smith, Bubble of the Age, p. 8.
193 Marryat, PD, first series, 15 (14 Feb. 1810), c. 419.
It is obvious that the grant of any such privileges or immunities to any set of men, is an injury to all those by whom they are not enjoyed; and therefore it is an established principle that they ought never to be granted, but in order to procure some advantage for the public, which cannot be procured by any other means.195

Marryat was not alone. Others argued that the formation of joint stock companies was a public, not a private issue, and therefore saw a significant role for the state in regulating this type of commercial activity. ‘What a man may do with his own,’ argued one anonymous pamphleteer, was not ‘a matter of perfect indifference to the rest of mankind’. The more his projects came into contact with the public, ‘the more it becomes their matter, not only in the effects that may result from the execution of the scheme, but in the means that may be resorted to by the projectors to carry it into execution.196 The projectors could not be assumed to be advancing the public interest, because they were ‘antagonists’ to this interest.197 The state was the agency which, in only incorporating schemes which it judged to be in the national interest, would defend the public. This active state role was accepted by political economists because it did not deny natural rights to individuals or groups. McCulloch, for example, did not accept that anyone had a natural right to corporate privileges such as limited liability: ‘we are told with much emphasis and pomp of diction that it is manifestly unjust to interfere to hinder A, B, and C, from engaging in a partnership under such conditions as they may please to specify; that this is a liberty to which they are naturally entitled’. But he rejected such arguments as ‘transparent sophistry’. Society was ‘founded on the principle that every man and set of men shall be responsible, in the widest sense of the term, for his or their proceedings.’ Governments were obliged to enforce this rule rigidly ‘unless in cases where it is clearly shown that the public interests will be promoted by its suspension.’198

For contemporaries, companies were neither inevitable features of society, nor inevitably positive influences on society. The state had a duty to grant special powers cautiously and only when it was in the public interest to do so. It was realised that by incorporating companies, the state was putting them above the ordinary laws of the land. To do this on too extensive a scale raised serious constitutional issues. In 1824, Lord Redesdale expressed considerable alarm at the number of companies being formed, and argued that the Lords needed to ‘be careful how they allowed so many companies with large capitals to be formed, as they might have a dangerous influence on the constitution and government of the country.’199 The Earl of Westmorland agreed: ‘The creation of so many companies might be

196 Anon., Beware the Bubbles, p. 6.
197 Ibid., p. 5.
199 PD, second series, 11 (15 Jun. 1824), c. 1340.
dangerous to the state'.\textsuperscript{200} If the privilege came to be seen as a right, the ability of the state to discriminate between enterprises in the public interest and those detrimental to it, would be removed, and the public would suffer terribly as a result.

Henry Brougham ‘always felt repugnant to joint-stock companies, considering that they were mischievous when not placed under tight and close restrictions’.\textsuperscript{201} Lord Eldon thought along similar lines, objecting to the incorporation of any company by Act of Parliament, preferring incorporation by Royal Charter. A charter could be rescinded at any time if the company acted improperly. But in the case of a company incorporated by an act, another act was required to repeal the former: a more time-consuming and uncertain means of government regulation. He warned the Lords that they ‘ought to be extremely cautious how they established companies, with powers which might prove seriously injurious to the interests of individuals.’\textsuperscript{202} He felt that, if promoters insisted on obtaining Acts of Parliament, it was necessary to take steps to make these bills ‘as little injurious, or rather of as much benefit to the public, as possible’.\textsuperscript{203} He ‘hoped to be able to satisfy their lordships, as he was sure the public were satisfied, that without some restrictions such companies would be the most ruinous nuisance ever known.’\textsuperscript{204} It is interesting to note that William Huskisson, Eldon’s Liberal Tory colleague, felt the same way. He objected to bills of incorporation unless a charter had first been obtained. Parliamentary incorporations were problematic: ‘To authorize an unlimited number of trading companies in such a manner, would be to do a material mischief to the country...He would not object to giving bodies who might be about to do business on a large scale, the power of suing and being sued collectively; but he certainly should oppose the taking every wild and idle speculation that might offer itself, out of the general operation of the laws of the country.’\textsuperscript{205}

Many key figures across the political spectrum and across the first half of the nineteenth century were in agreement that the state needed to retain its discretionary powers over joint stock enterprise. Without this control, the public would be at the mercy of a plethora of companies competing unfairly with individual entrepreneurs, destabilising trade, establishing monopolies, and dragging commercial habits into the gutter. These were not the only reasons for retaining this control, however. It was widely feared that the existence of a great number of joint stock companies would encourage wild speculation in the shares of these companies by the public. This, it was believed, would draw capital away from

\begin{footnotes}
\item[200] \textsuperscript{200} Ibid.
\item[201] \textsuperscript{201} PD, second series, 13 (16 May 1825), c. 607.
\item[202] \textsuperscript{202} Ibid., 11 (21 May 1824), c. 792.
\item[203] \textsuperscript{203} Ibid., (18 Jun. 1824), c. 1456.
\item[204] \textsuperscript{204} Ibid., (21 Jun. 1824), c. 1473.
\item[205] \textsuperscript{205} Ibid., (10 May 1824), c. 609.
\end{footnotes}
legitimate and necessary trades, undermine the social hierarchy, and weaken the values which had led to the nation’s pre-eminence. These fears will be considered in the next chapter.
2.

The Myriad Sins of Speculation

Anthony Trollope's novel *The Three Clerks* is a story of the degrading effects of greed and ambition on moral standards. The early part of the novel revolves around the world of Cornish tin mining and the corrupt speculations surrounding it. Trollope offers a grim description of the mine site:

It was an ugly uninviting place to look at, with but few visible signs of wealth. The earth, which had been burrowed out by these human rabbits in their search after tin, lay around in huge ungainly heaps; the overground buildings of the establishment consisted of a few ill-arranged sheds, already apparently in a state of decadence; dirt and slush, and pools of water confined by muddy dams, abounded on every side; muddy men, with muddy carts and muddy horses, slowly crawled hither and thither, apparently with no object, and evidently indifferent as to whom they might overset in their course....On the ground around was no vegetation; nothing green met the eye, some few stunted bushes appeared here and there, nearly smothered by heaped-up mud, but they had about them none of the attractiveness of foliage. The whole scene, though consisting of earth alone, was unearthly, and looked as though the devil had walked over the place with hot hoofs, and then raked it with a huge rake.¹

The devil was usually to the fore of nineteenth-century discussions of speculation in joint stock companies. Speculation was perceived as a sin committed in the ungodly pursuit of wealth, a temptation to which many succumbed as the opportunities for idle investment grew. This chapter explores the many facets of the case against speculation in seven related sections. First, the contrast frequently drawn between honest labour and dishonest speculation is examined. Speculation, particularly speculation beyond one's means, was perceived as a godless activity which undermined habits of hard work and thrift. Speculation was viewed as identical in nature to common gambling, except its effects on the economy were far more deranging. Second will be a consideration of perceptions of the Stock Exchange, a byword for greed and immorality for many in this period. The Stock Exchange was considered symbolic of the new morality based on shares, which robbed men and women of the simple pleasures of life and threatened the family and the home. The third section looks at the language used to describe speculation, and explores associations between this activity and both disease and insanity, while the fourth section considers received notions of the relationship between property, profit, and responsibility. Transferable shares were thought to represent a form of property which bore profit without responsibility. The fifth section examines how the combination of the ignorance of investors and their position of

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powerlessness in the company made them easy prey for unscrupulous promoters and directors. This is followed by a consideration of the importance of appearance, show, and display to the joint stock economy, and how this was thought to lead people to value success and wealth rather than moral qualities. The final section explores the perceived all-encompassing nature of joint stock investment, and the particular opprobrium attached to speculation by the aristocracy, women, and the working classes. The social instability thought to ensue from this situation is then examined. The section ends with a clarification of the principal targets of social commentators: these were not, as is sometimes assumed, the fraudsters themselves, but the stupid and greedy population which fell for their scams. Contemporaries, often thought to have adopted vague and inconsistent ‘anti-Mammon’ stances, frequently identified joint stock enterprise as the principal evil, rather than attacking all forms of commercial activity indiscriminately.

Idleness and Industry

For much of the nineteenth century, buying and selling shares in joint stock companies was an activity commonly perceived to be fraught with dangers for the morality of the individual. Primarily this was because it was seen to weaken the crucial connection between hard work and its just reward, profit. Evangelical notions of retribution were central here. As Boyd Hilton has noted, evangelicals had a conception of society ‘in which men are governed by rewards and punishments’.

Honest, virtuous labour would be rewarded, and idleness punished. These values were almost universally held in the early nineteenth century. As Stefan Collini has argued, for the respectable classes, ‘work was the chief sphere in which moral worth was developed and displayed.’ For Samuel Smiles, the apostle of self-help, work was ennobling. ‘Labour may be a burden and a chastisement, but it is also an honour and a glory’, he wrote. The moral elevation provided by labour was open to all, irrespective of means: ‘Industry enables the poorest man to achieve honour, if not distinction.’ Thomas Carlyle believed there was ‘a perennial nobleness, and even sacredness, in Work...in Idleness alone is there perpetual despair.’ Wealth acquired through work might be slow to

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6 Ibid., p. 148.
accumulate, but it would be honestly acquired. In any case, character was the most important
form of property: ‘the noblest of possessions’, according to Smiles.\(^7\)

Joint stock enterprise, reliant on passive investment rather than active involvement by
shareholders, challenged these tenets by holding out the prospect of profit without work. For
*The Times*, the joint stock company was ‘a means of making money in idleness’, a way of
sharing in the profits of trade ‘without a knowledge of trade, or any education in it; without
abilities, without character, without any attention or exertion’.\(^8\) The newspaper accused
investors of wanting to ‘enjoy the profits of trade consistently with the luxury of being a
sleeping partner’.\(^9\) It was widely feared that speculation, appealing to people’s worst
instincts, would encourage the population to abandon their trades, to the detriment of the
nation’s economic position. Soon after the boom and bust of 1825, the anti-capitalist political
economist Thomas Hodgskin opined that ‘Industry loses all its charms when affluence may
be acquired by a lucky hit. At present the order of nature is reversed, and opulence, instead of
being the result only of pains-taking labour, is the reward of some chance speculation.’\(^10\)
Conservatives were equally concerned that by promising large returns without effort,
speculation paralysed the natural instinct to labour. The Tory *Fraser’s Magazine* feared that
‘those who had seen 50 per cent depend upon the turn of the moment, could no longer toil for
months to obtain the certain 10.’\(^11\) Many found temptation impossible to resist during the
speculative boom of 1825, with disastrous implications for trade: ‘million upon million was
drawn from the activity of trade...The farmer abandoned his plough-shares to possess shares
in the new companies – the merchant gave up his packages to join in baling water from the
golden cavities of Peru or Chili...the shoemaker staked his all on the new doctrine of
chances’.\(^12\)

Speculation was perceived as a godless activity. As Hilton has noted, the term
‘implied not merely economic irresponsibility but even philosophic doubt and atheism.’\(^13\) For
the Reverend J. B. Owen, addressing the Manchester Young Men’s Christian Association,
speculation betrayed ‘an insubordination to the will of God’ and ‘impatience of present
allotments’.\(^14\) The Anglican novel *Speculation* concerns Edward Hughes, a successful
merchant and Independent Dissenter, who is lured into speculation in company shares, to
which he dedicates himself wholeheartedly. Speculation is presented as an outgrowth of his

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\(^1\) Smiles, *Character*, p. 6.  
\(^2\) Ibid.  
\(^3\) *The Times*, 9 Nov. 1840, p. 4.  
\(^6\) Ibid., pp. 579-81.  
\(^7\) Hilton, *Age of Atonement*, p. 123.  
religion, which was 'the means of gratifying his self-confidence, his impatience of control, his selfishness'. Soon, he is 'in a whirl of gains, living on hopes, and had small care for the present, and none for the past.' His neighbour Ramely, an old Tory and Churchman, warns him that speculators are prone to 'a forgetfulness of God'. They know they are doing wrong, so enter into dangerous undertakings without consulting God, and may enter a great crisis without his help. If they fail, they are in Satan's clutches; if they succeed, they develop dangerous sentiments of independence from God. Hughes retorts that 'all business is speculation'. But Ramely makes a distinction. Legitimate businessmen do not go out of their way to take risks: speculators court these risks. His advice is 'for a man to keep to his own business, honestly to shrink from great risks, to follow the course which God seems to have marked out for him, and to be content with sure bread in God's path and God's time.'

These distinctions were not new. Thomas Chalmers, the prominent 'Christian economist' distinguished between 'solid commerce', divinely sanctioned, and 'excrecent trade', 'the blotch and distemper of our nation.' As Hilton has noted, such distinctions were in some respects vague and imprecise. Furthermore, they provided 'cover for some socially conservative attitudes': speculation was in part condemned as it was practised by those who wanted to get rich too quickly, upsetting the natural order of society. But the illegitimacy of speculation also stemmed from the nature of the commercial transaction it implied. Legitimate business was characterised by the mutual benefit incurred by parties involved, unlike speculation, where there had to be winners and losers. The Reverend George Fisk advocated what he called 'pure commerce', commerce which did not take from one and give to another, but which met the needs of both parties engaging in it, so that 'there shall be gain and advantage on both sides.' An 'old merchant' asserted that while legitimate trade added to national wealth, illegitimate trade was a form of plunder which only redistributed existing resources from the honest or gullible to stock market fraudsters. 'The merchant and manufacturer add to the general stock of the community every pound their operations gain; the speculator in shares can only gain by another's loss.' A. MacFarlane argued that commerce 'has been degraded by the belief that our profit must result from another's loss — an absurd and false principle.' In his 1850s novel, Railway Scrip; Or, the Evils of Speculation (Oxford: Henry Parker, 1850), p. 9.

16 Ibid., p. 75.
17 Ibid., pp. 90-1.
18 Ibid., p. 93.
20 Hilton, p. 122. For more on this, see below.
Speculation: a Tale of the Railway Mania, he describes the degrading effects of these transactions. Andrew McLeod, hitherto a gentle and caring teacher, learns that some railway securities he sold the day before have just fallen a pound a share. ‘Andrew, the benevolent, the amiable, the well-meaning Andrew, actually chuckled when he heard of this fall. His eye looked really Jewish; it flashed so at that moment.’

Commentators of various shades equated speculation with gambling. For William Cobbett, joint stock companies appealed to those who wanted to gain wealth by ‘dexterity and trick’ rather than ‘patient industry’. ‘Men, and particularly young men, generally dislike a slow operation in getting rich, especially as it must be accompanied with labour, or restraint, or both.’ Consequently they turned to ‘fraudulent gambling’, to get rich quick. The ‘spirit of gambling and speculation’, claimed one merchant, was ‘altogether foreign to those habits of patient and well-directed industry which can alone really advance individual or national prosperity.’ A country which had abolished lotteries and aspired to put down gambling houses should turn its attention to ‘this infinitely more extensive and more pernicious gambling.’ William Huskisson believed that the companies promoted in the speculative boom of 1824-5 encouraged the worst habits of the population: ‘Parliament had very properly put an end to the system of gambling by lotteries; but many of these companies led to much more destructive consequences than even that.’ Ten years later, at the peak of the enthusiasm for railways in the 1830s, the Liberal MP William Clay complained that people were buying railway shares ‘as they would tickets in a lottery.’ Railway investment came to seem even more like gambling with the railway mania of the 1840s. Matthew Dobson Lowndes claimed that the enthusiasm for speculation withdrew people from all classes from trade and threw them into ‘one great game of hazard.’ The parallels between speculation and gambling were frequently drawn in this period. It was the avowed policy of Peel’s Government to ‘put down gambling, which had lately very much increased in this country, and produced such pernicious and fatal effects’, but many doubted the efficacy of such measures when the speculative urge was given such encouragement by the promotion of

24 Ibid., p. 32.
26 Ibid., p. 419.
27 Ibid., p. 421.
29 PD, second series, 12 (28 Feb. 1825), c. 717.
30 PD, third series, 32 (11 Mar. 1836), c. 203.
32 Cited in Geoffrey Searle, Morality and the Market in Victorian Britain (Oxford: Clarendon Press, 1998), p. 82. See also The Times, 13 Nov. 1845, p. 4, for a sustained linkage of speculation and crude gambling.
joint stock companies.\textsuperscript{34} It was feared that gambling speculation was becoming part of the national character. Walter Bagehot concluded: 'John Bull can stand a great deal, but he cannot stand Two per cent... Instead of that dreadful event, they invest their careful savings in something impossible – a canal to Kamchatka, a railway to Watchet, a plan for animating the Dead Sea, a corporation for shipping skates to the Torrid Zone.'\textsuperscript{35} Such ridiculous schemes would of course fail, but Edward Cox, editor of the \textit{Law Times}, argued that under a system of limited liability, the largest speculation was 'the most prudent course'. As the speculator did not pay for his failed ventures, it made sense for him to speculate in as many schemes as possible, 'for the greater the number of his speculations, the more his chances of gain upon the whole venture'. Limited liability 'enables a man "to hedge" in trade as a gambler does with his bets on the racecourse.'\textsuperscript{36}

While such gambling might have made sense for the individual protected by limited liability, the implications for the economy as a whole were catastrophic. Speculation drew men and women away from their legitimate pursuits and wasted their energies in gambling. Legitimate commerce was solid and real; speculation was shadowy and ethereal. As soon as men leave the solidity and safety of ordinary work, they are doomed. 'The filmy bubble rises above the surface, looks down upon the waters, and thinks itself all safe; but it finds, in no long space of time, that it lost its safety when it forsook the stream, and ceased to have any reality when it separated from the solid flood.'\textsuperscript{37} For such commentators, joint stock enterprise was built on nothing more substantial than air. Speculations were presented literally as bubbles, floating high before being burst and falling to the earth, as in Robert Bell's view of the railway crash of 1845: 'The crash was as instantaneous as the collapse of a balloon, when, after ascending gaily into the clouds, to the admiration of gaping multitudes, it suddenly discovers a rent – the gas escapes, and the gaudy structure comes tumbling to the earth.'\textsuperscript{38} In Dion Bourcicault's \textit{The School For Scheming}, the MacDunnum is eloquent on the nature of society where everything was 'unreal'. 'Facts exist no more – they have dwindled into names – things have shrunk into words – words into air – cash into figures – reputation into nothing. This is the reign of NOTHING; to possess it, is the surest foundation of fortune in every walk of life.'\textsuperscript{39} In Trollope's \textit{The Way We Live Now}, Augustus Melmotte, the swindling financier, explains that the joint stock system was based on confidence and credit, and explains the nature of credit thus, 'how strong it is – as the air – to buoy you up; how

\textsuperscript{34} See for example \textit{The Times}, 1 Jul. 1845, p. 4.
\textsuperscript{37} MacFarlane, \textit{Railway Scrip}, p. 52.
slight it is — as a mere vapour — when roughly touched'. The hopes which fuelled speculation were sometimes likened to smoke: both were unsubstantial, and liable to vanish at any moment. We see Andrew McLeod, the amateur speculator, sit by himself late at night, contemplating his speculations. ‘As the fumes rose from his indulgent pipe, castles of wondrous size and description rose up in mid air.’ But, ‘Uneasy twitchings of conscience now and then — they disturbed him. Fear rose up at times — it swept over his castles with a howling tempest; they vanished.’

In nineteenth-century novels, impressive-seeming companies are in fact built on no foundations whatsoever. Dickens’ Anglo-Bengalee Disinterested Loan and Life Assurance Company is a sham. David Crimple, the secretary, asks Montague, the chairman, what the paid-up capital will be according to the next prospectus. Montague replies, ‘A figure of two, and as many oughts after it as the printer can get into the same line’. This figure bears no relation to the actual property of the company. Indeed, the company had been designed to deceive from the very beginning. Montague reminds Crimple of the original idea behind the company. He had told Crimple ‘that, provided we did it on a sufficiently large scale, we could furnish an office and make a show, without any money at all’. In *The Great Hoggarty Diamond*, the Muff and Tippet Company falls, ‘after swallowing a capital of £300,000, as some said, and nothing to show for it except a treaty with some Indians, who had afterwards tomahawked the agent of the Company. Some people said there were no Indians, and no agent to be tomahawked at all; but that the whole had been invented in a house in Crutched Friars.’ Appearances were not to be trusted. In *Little Dorrit*, Merdle, the ‘commercial colossus’, was in fact worth nothing. The public ‘wondered how much money he had in the wonderful Bank. But, if they had known that respectable Nemesis better, they would not have wondered about it, and might have stated the amount with the utmost precision.’

Investments which seemed as safe as the Bank of England could prove to be fraudulent enterprises with no sound basis at all. When commercial relations were based not on knowledge, but trust, confidence and credit, nothing was safe. Old realities, old certainties, could no longer been taken for granted. Contemporaries were especially worried because money which should have been pumped into legitimate trades was being drained away into these hot air schemes. The fear was that this was having terrible effects on the economy. An anonymous pamphleteer of 1831 argued that while a ‘strong tendency to speculate’ was ‘the

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41 MacFarlane, *Railway Scrip*, p. 28.
43 Ibid., pp. 371-2.
principle which has given to England so many mechanical and commercial advantages over all the nations in the world', this urge could also do much harm. The 'uncontrolled exercise of the spirit of speculation' in 1825 brought ruin to many and placed millions in the hands of 'mere projectors, and their attorneys', money which, 'had the public mind been in a state of sober watchfulness, might have quietly been applied to an extension of the productive industry of the country.'

Speculative manias led to crashes. Investors, encouraged to over-commit themselves by large denomination shares with low deposits, could not pay the calls on their shares. Investors were made bankrupt, companies were deprived of the capital they needed. Banks failed. Merchants and manufacturers retrenched. Workers were laid off. Large scale economic dislocation was the result. In Charles Lever's *Davenport Dunn*, Dunn's failure brings 'thousands' to destitution, proving 'the dishonesty of one man could so effectually derange the whole complex machinery of a vast society' because 'the money-getting passion [had] taken possession of the national mind'. Dickens employed maritime metaphors to explain the calamitous effects of Merdle's collapse:

The admired piratical ship had blown up, in the midst of a vast fleet of ships of all rates, and boats of all sizes; and on the deep was nothing but ruin: nothing but burning hulls, bursting magazines, great guns self-exploded tearing friends and neighbours to pieces, drowning men clinging to unseaworthy spars and going down every minute, spent swimmers floating dead, and sharks.

Quite legitimately has Barbara Weiss described the Victorian conception of bankruptcy as a 'social apocalypse', whose implications stretched far beyond the personal, to engulf whole communities.

It was also feared that large scale investment in joint stock schemes implied too much of a transfer of property at one time, which would destabilise the economy. An anonymous pamphleteer, writing in 1825 about the range of proposed joint stock schemes, argued that 'the vast transfer of capital required to carry them into simultaneous effect' meant it was difficult to ignore 'the utter absurdity of a great number of them, with a view to the benefit of anybody or anything, except the projectors.' The railway mania intensified these fears.

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Even if many of the schemes were legitimate, it was impossible that they could all be carried out at once. 'Whence is to come all the money for the construction of the projected railways?' asked *The Times* in 1845.\textsuperscript{52} Answering its own question, the newspaper predicted 'an immense and ruinous derangement of existing employment of capital'.\textsuperscript{53} The millions sunk in the railways would have to be withdrawn from other branches of industry. 'The tradesman will have to take his capital out of his business; the farmer will have to diminish, or not to renew his stock; the landlord will have to build less, or repair less, or drain less.'\textsuperscript{54} The railway mania also prompted countless comments on the destructive qualities of speculation. The undoubted dangers of railway explosions and crashes were employed in order to suggest the equally dangerous potential of speculation in 'The Demon of 1845', a cartoon by Cruikshank.

**Fig. 2.1. The Demon of 1845**

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\end{center}

*Source: George Cruikshank's Table-Book, 1 (May 1845), opposite p. 93.*

\textsuperscript{52} *The Times*, 1 Jul. 1845, p. 4.
\textsuperscript{53} Ibid., 14 Oct. 1845, p. 5.
\textsuperscript{54} Ibid., 4 Sep. 1845, p. 4. See also the Earl of Dalhousie's speech in the Lords: PD, third series, 85 (23 Apr. 1846), c. 868.
The cartoon takes us through the three stages of railway shares, ‘Premium’, ‘Par’, and ‘Discount’. When shares are at a premium, the investing public dance joyously around the bubble- blowing railway engine. With shares at par, bubble production slows, and when shares are at a discount, the limbs of the demon shoot off in all directions, taking several heads with them, and crushing many more helpless bodies. The target of the cartoon was not the railway itself, but the excessive speculation surrounding it. The same is true of other treatments of the same theme, such as this 1848 cartoon from the *Puppet-Show*, a left-leaning satirical weekly.

Fig. 2.2. The Great Land Serpent

![The Great Land Serpent](image)


Here, the railway mania is depicted as a ‘great land serpent’ with a seemingly endless body and a huge fanged mouth, devouring its shareholders, among them lords, bishops, and admirals, who are drawn as plump and helpless moneybags. The residual fear of the dangers associated with steam power was not the principal focus of these cartoons; rather, they
harnessed these familiar themes in order to make a different point about the terrifying destructive power of joint stock finance. The joint stock principle was designed to maximise the potential of capital by uniting it, but in fact drew capital in only to gobble it up. Railway engines were employed as a topical and resonant symbol for this malevolent and devastating new social force.

**The Stock Exchange**

Nineteenth-century diatribes against greed and the sordid pursuit of wealth are familiar, but less acknowledged is the frequency with which these attacks referred directly to stock market speculation. For many, the Stock Exchange was a symbol of the ills of a society corrupted by avarice. In a series of articles in the 1830s on the Stock Exchange, *Fraser’s Magazine* set out its views on the institution at some length. *Fraser’s* argued that it ‘has been a curse to the empire. It has corrupted her citizens, it has drained her resources, it has blighted her trade, it has destroyed her stability.’ The magazine stretched its capacity for metaphor to the limit in order to do justice to the evils of the Stock Exchange. It was a ‘temple of vice’ where ‘vampires of the stock market’ sought out prey. It was a ‘city hell’, ‘a modern monument of debasement and crime.’ According to the magazine, the ‘locusts of the Stock Exchange’ were blighting English capital. Dealers were guilty of dragging property ‘within the vortex of Capel Court’.

Such views were not new, for there was a long tradition of hostility to the trade in stocks and shares, and to the practitioners of this trade in particular. Samuel Johnson was voicing a dominant feeling when he defined the stockjobber in his Dictionary as ‘a low wretch who gets money by buying and selling shares in the funds’. Thomas Mortimer, an early investment adviser and author of the best-selling *Every Man His Own Broker*, which went through 14 editions between 1761 and 1807, consistently railed against the curse of stock-jobbing which was carried out in ‘the slight-of-hand theatre, the Stock-Exchange’. In a long career he sought to expose the evils committed by ‘stock-jobbing brokers’ and the

56 Ibid., p. 577.
57 Ibid., p. 580.
58 Ibid., p. 582.
59 Ibid. p. 585.
61 Anon., ‘The Stock Exchange, No. II’, *Fraser’s Magazine*, 4 (Jan. 1832). p. 721. Capel Court, on the corner of Throgmorton and Old Broad Street, was, from 1802, the home of the Stock Exchange.
"various stratagems and nefarious machinations resorted to in the Alley." This hostility continued well into the nineteenth century, with sustained ill-feeling towards "the oblique arts of stock-jobbing." But the value of the securities traded on the Stock Exchange grew through the century, and in 1853 a new building had to be built, to accommodate the business being conducted. One pamphleteer expressed dismay that the Stock Exchange was coming to be seen as "a necessary and irremediable evil." But, he argued, the only reason it was tolerated was because the full extent of its evils were not public knowledge. The institution was a "monstrous destroyer of souls and bodies," and its members "agents of a corruption infinitely worse than ever infested society from any other imaginable source of evil." Men whose vocation was in Capel Court were "engaged in a pursuit utterly inconsistent with honour, religion, and morality." These were not uncommon views. Hostility to the Stock Exchange still thrived at mid-century and beyond. Authors continued to write disparagingly of "the Capel Court standard of morality." For George Sala, the Stock Exchange was "the great Mammon club." The members of this club were thought of as showy gamblers. David Morier Evans remarked that the "young bloods" of the city were "great patrons of the turf. They hunt, and ride, and keep their dogs, and make strict holidays for the "Derby," and the "Ascot Cup," with which no description of business is allowed to interfere." They also displayed "great anxiety to be peculiar in their dress, which occasions a rage every now and then among them for strangely-fashioned hats, deep striped shirts, long-waisted coats, and other articles of clothing, which meet the eye, and make a sensation." It was the opinion of another author that "millions" were drawn from the public each year by a "system of iniquity" in order to fund the extravagant lifestyles of the members of the Stock Exchange, that "Ungodly Brotherhood of Capel Court." The main focus of the author's venom was the medium of "time bargains". These caused evils worse and demoralisation more extensive than all the "gambling Hells" could ever produce. Colluding brokers and jobbers meant it was only possible for the public to win on the exchange with

64 Ibid., p. 1.
65 Anon., *South Sea Bubble*, p. 11.
66 Kynaston, *City of London*, p. 175.
68 Ibid.
69 Ibid., p. 6.
70 Ibid., p. 14.
73 [David Morier Evans], *The City; Or the Physiology of London Business* (London: Baily Brothers, 1845), pp. 190-1.
inside information. ‘The game is safe to those who play with loaded dice.’ But the gambling game ‘wears the cloak of a commercial speculation’, so that ‘day by day fresh gamblers rush in’. He wanted to see all who engaged in gambling speculations made liable to a criminal indictment. The London Stock Exchange was not the single focal point of criticism. From the 1830s, a growing number of provincial Stock Exchanges emerged to cater for the growing numbers of investors through the country. These provincial exchanges were believed to demonstrate many of the flaws associated with the London Stock Exchange. Matthew Dobson Lowndes, a solicitor, was far from hostile to joint stock companies and the traffic in shares, but thought that the ‘viciousness of the system’ prevailing on the Liverpool Stock Exchange was such that brokers needed to be protected from their principals, principals from their brokers, and brokers from each other. But the London Stock Exchange attracted the most attention. For Marx, the Stock Exchange was ‘where little fishes are gobbled up by the sharks, and sheep by the stock-exchange wolves’ As long as the Stock Exchange existed in its presented form, wrote one anonymous critic, ‘jobbery, corruption, breach of trust, imposture, fraud, and all immorality, must be its inseparable concomitants.’ Trollope agreed, portraying the City as a whole as a modern hell. ‘Oh, the city, the weary city, where men go daily to look for money, but find none; where every heart is eaten up by an accursed famishing after gold; where dark, gloomy banks come thick on each other, like the black, ugly apertures to the realms below in a mining district, each of them a separate little pit-mouth into hell.’

This ‘famishing after gold’ was widely condemned in Victorian society. For Charles Dickens, a new morality had sprung up, based on shares:

As is well known to the wise in their generation, traffic in Shares is the one thing to have to do with in this world. Have no antecedents, no established character, no cultivation, no ideas, no manners; have Shares. Have Shares enough to be on Boards of Direction in capital letters. oscillate on mysterious business between London and Paris, and be great. Where does he come from? Shares. Where is he going to? Shares. What are his tastes? Shares. Has he any principles? Shares. What squeezes him into Parliament? Shares. Perhaps he never of himself achieved success in anything, never originated anything, never produced anything! Sufficient answer to all; Shares. O mighty Shares!

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75 Ibid., p. 13.
76 Ibid., p. 13.
77 Ibid., p. 20.
78 Lowndes, Liverpool Stock Exchange, pp. 4, 8.
80 Anon. ['Dot'], Stock Exchange, p. 11.
81 Trollope, Three Clerks, p. 432.
Or, as Affable Hawk, a swindling company promoter in George Henry Lewes’ *The Game of Speculation* opines: ‘All our morals lie in dividends!’

Carlyle famously condemned ‘Mammonism’, that worship of the ‘deity’ of Mammon, that ‘leaving all to “Cash”’, where the ‘Hell of England’ was ‘not making money’. The moral decline which speculation induced was vividly described by contemporaries. Once hooked, a speculator was plunged ‘into the abyss’ and became ‘a regular and a desperate gambler’. To pay his debts, ‘he will strip his dearest relative or his best friend of his last shilling, under the most false and unjustifiable pretences, inspired by the hope, implanted by the Devil himself, that his future speculations will enable him to pay his creditors’.

The economic effects of speculation were devastating, but worse still were the effects on families. The hell of the home torn apart by failed speculation was a common theme in nineteenth-century discourse. In Thackeray’s *The Great Hoggarty Diamond*, the West Diddlesex Company collapses, and we see in some detail how the head clerk’s family suffers for his naivety and greed. The family is broken up, he goes to prison, they lose their house, and Mary and her son have to live in cheap lodgings. Their baby son dies, and Mary is forced into service. It is a similar story in *The Three Clerks*. Alaric Tudor is found guilty of speculating with his trustee’s money and is imprisoned. The house and the furniture is sold. His wife, who gives birth to a second child during Alaric’s sentence, is aged by the ordeal, and when he is released, they have to emigrate to Australia in order to start afresh, separating Gertrude from her loving mother and sisters for ever.

Speculation destroyed the finer aspects of human relations. Bell describes what happened when over-speculation led to panic and crash:

> Wherever you went, you met the same evidences of anxiety...the agitation with which the daily newspaper was looked forward to; the whispering fear with which each new disaster was communicated from partner to partner, from husband to wife, from father to son...the solitary watch of women, as they waited, with shattered nerves, for the tidings that might in a single hour hurl down their children from affluence to beggary...”

Cobbett warned his readers that the life of the speculator was ‘a life of constant anxiety...constant apprehension; general gloom, enlivened, now and then, by a gleam of hope or of success.’ Speculation beyond one’s means brought nothing but ‘ruin, misery, and

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84 Anon. [‘Dot’], *Stock Exchange*, pp. 8-9.
suicide'.87 The destruction of the home by speculation was the theme of this cartoon by Cruikshank:

Fig. 2.3. The Railway Dragon

Source: George Cruikshank's Table-Book, 1 (Dec. 1845), opposite p. 261.

Here, a terrifying demonic railway engine is shown smashing into a comfortable middle-class home at Christmas, knocking the children to the floor and grabbing the family's Christmas dinner. The father has been speculating, and now the results of his gambling are brought home to his loved ones, the innocent victims of his improvident behaviour. He holds his head and wails, 'Oh! my beef! and oh! my babbies!!!' But the monster ploughs on remorselessly.88

87 Ibid., p. 66.
88 The cartoon also suggests the destruction wrought by railway lines running through people's homes, facilitated by railway companies' powers of eminent domain.
Even before the final crash came, however, home life suffered greatly. In *Railway Scrip*, MacFarlane was keen to depict the uncertainty which daily plagued the speculator: the fear of sudden ruin was always on his mind: ‘Not one moment is full happiness allowed him.’ Family life was disrupted and vitiated. If shares were down in the morning lists, ‘there was goodbye to domestic peace all the day.’

Many a loving wife never saw her spouse in such sorry plight before. He looked as black as if he had been sleeping up the flue all night; his tongue vibrated with all the velocity of lightning; his eyes fairly gleamed and gloamed with fury; his face redden to its deepest crimson hue; and, as for his whole visage, you would as soon meet a hungry bear in a forest, or a tiger in a jungle.

MacFarlane told his readers, ‘We lose a heaven of happiness, at many times, by the restless desires we indulge for something looming in the distance.’ In his novel, the unworldly teacher Andrew McLeod enjoys a simple yet idyllic life in Woodville Cottage, Craven, with his wife and two children. Like many of his neighbours, he succumbs to railway speculation when three lines are projected through Craven. His earlier speculations are successful, and he is easily persuaded to invest more heavily. He neglects his family, spending an increasingly amount of the summer holidays speculating in Leeds, where he lingers amid ‘smoke, dust, and noise, instead of passing his hours in rural enjoyment’. When the bubble bursts, rather than getting out, he uses his wife’s money and borrows more to continue dealing, and gives up his job to devote all his time to his commercial affairs. His debts accrue, and his reputation in the local community is tarnished. The servants are laid off; and soon after, the bailiffs take the family’s furniture and valuables. A humble teaching post becomes available a few miles away. He takes it to oblige his wife, and resolves to give up speculation, but he soon drifts back into bad habits. His wife dies, and only then does McLeod realise the error of his ways and is cured of his addiction to speculation.

Family relationships were corrupted by speculation. More than the scenes of his cynical financial dealings, we only fully lose sympathy with Rawlings when we see his heartless coercion of his daughter. She is to marry the heir of Lord William Elton, to help fix Rawlings in high society, despite the fact that she loves Henry Winston, her childhood sweetheart. Rawlings accuses Winston of wanting Margaret for her money. Winston protests, telling Rawlings that he would happily live his life in poverty with Margaret. With a grim

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89 MacFarlane, *Railway Scrip*, p. 42.
90 Ibid., p. 48.
91 Ibid., p. 6.
92 Ibid., p. 35.
smile, Rawlings replies, 'You talk like a child...when you grow up to be a man, you will see and repent your folly.' All emotions are subordinated to the pursuit of wealth.

**The Commercial Fungus**

Addiction to speculation spoilt the ordinary pleasures of life and tore families apart. The desperate speculator would stop at nothing to feed his habit: all moral considerations, all rational calculation, were suspended. In this way, as Geoffrey Searle has noted, speculation was closely linked in the popular imagination with disease and mental illness. Contemporaries saw similarities between the periodic peaks of speculative activity and the epidemics of cholera, typhus, typhoid and other diseases which rampaged so destructively through nineteenth-century towns. By associating the urge to gamble in financial markets with this terrible and seemingly insoluble phenomenon, critics of speculation were able to key into a central fear and preoccupation of the age. Contemporaries referred to 'the contagion of Stock Exchange speculation'. Fraser's Magazine wrote that 'the Stock Exchange influenza' was ravaging the population and was a greater threat than the cholera, which only killed the afflicted, while 'the influenza of Capel Court exterminates the victim, beggars his family, taints his connexions, and blights his memory.' The 'wild spirit of speculation...like the periodical visits of an epidemic, from time to time, bursts upon the land.' In 1825, an 'Old Merchant' referred to 'this morbid appetite for schemes, this epidemic...a chronic rather than an inflammatory complaint'. Years later, the railway mania was described as a 'paroxism' , a 'contagion', and a 'fever'. Lord Brougham referred to 'the gambling disease and fever of speculation'. The company promoters behind this mania were 'a commercial fungus - a financial mushroom'.

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94 Deception on the Stock Exchange was often likened to deception in personal relations. See Charles Dance, *The Stock Exchange, or the Green Business* [1858], in *Lacy's Acting Edition of Plays, Dramas, Farces, Extravaganzas, etc*, 36 (London: Thomas Hailes Lacy, n.d.).
96 Anon. ['Dot'], *Stock Exchange*, p. 4.
98 Anon. ['Dot'], *Stock Exchange*, p. 10.
102 Ibid., p. 3.
103 PD, third series, 85 (23 Apr. 1846), c. 880.
104 Bourcieault, *School*, p. 34.
one character comments when speaking of the new breed of company promoter, ‘These men are signs of the times – emblems of our era; just like the Cholera’.  

In Dickens’ *Little Dorrit*, the growth of the corrupt financier Merdle’s influence is likened to the spread of a contagion. In a chapter entitled, ‘The Progress of an Epidemic’, Dickens writes, ‘That it is at least as difficult to stay a moral infection as a physical one; that such a disease will spread with the malignity and rapidity of the Plague; that the contagion, when it has once made head, will spare no pursuit or condition, but will lay hold on people in the soundest health, and become developed in the most unlikely constitutions; is a fact’. Dickens stressed the potency of these epidemics: ‘Bred at first, as many physical diseases are, in the wickedness of men, and then disseminated in their ignorance, these epidemics, after a period, get communicated to many sufferers who are neither ignorant nor wicked.’

Speculation was also seen as a manifestation of insanity, as evinced by the frequently-used term ‘mania’ to describe periods of intense speculation. Joseph Parkes, solicitor and parliamentary agent for many joint stock companies, and a keen collector of company prospectuses, referred to the enthusiasm for joint stock companies in 1824-5 as ‘the national epidemic...at that time the public were mad’. For Henry Cockton, the ‘blind recklessness’ which fuelled speculation amounted to ‘a species of madness’. In Robert Bell’s *The Ladder of Gold*, we are told that Richard Rawlings, the railway king, ‘infect[ed] nearly the whole community with an insane belief in his infallible power of turning everything he touched into gold’. In *The Times* looked back on the speculation of 1845 thus: ‘The madness of April, May, and June, though madness a good deal of it undoubtedly was, yet was sobriety itself compared with the frenzy of the three next months.’ As railway speculation reached a climax late in 1845, *Punch* increasingly saw the frenzy for shares as a species of collective lunacy. One cartoon showed all the projected railway lines running into an asylum. The following week, the magazine printed the ‘Song of the Railway Maniac’, which concluded:

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105 Lever, *Davenport Dunn*, p. 64.  
107 *Select Committee on Joint Stock Companies*, PP, 1844 (119) VII.1, p. 225, q. 2354.  
110 *The Times*, 31 Oct. 1845, p. 4.  
I am not mad, I am not mad;
See where the shares on whirlwinds fly:
Oft! give me back the wings I had,
To mount and catch them in the sky.
Maniac, I say! you torture me! –
You crush me in that iron grip;
Madman, away! and leave me free
To chase my railway shares and scrip.\textsuperscript{112}

There soon followed ‘A Medical Lecture on the Railway Mania’, describing the course of this most serious form of insanity. ‘By degrees, reason is prostrated, and the moral feelings are perverted, so that the sufferer becomes deprived of the power of taking care of himself...Under these circumstances he writes frantically for Shares in Lines that are, and always will be, imaginary’. The piece continued that early seclusion was the best treatment. ‘If allowed to go about at all, his hands should be muffled, to prevent him from writing for Shares; and his mouth gagged, to hinder him from persuading others to commit the same folly.’\textsuperscript{113}

These ideas were worked out in detail by Charles Reade in his novel \textit{Hard Cash}, originally serialised in \textit{All The Year Round} in 1863. Lunacy is a running theme. The banker, Richard Hardie, becomes embroiled in railway speculations during the mania of the 1840s. With a reputation for commercial soundness – he was ‘a walking column of cash’\textsuperscript{114} – and for moral uprightness, Hardie had condemned the foolish speculations of others as based on the ‘Arithmetic of Bedlam’,\textsuperscript{115} but had been so jealous of their easy profits, that he had joined in. His speculations fail, and he is forced to the edge of bankruptcy. He first tries to salvage his situation honestly, in ‘a long and steady struggle’ of self-denial and thrift.\textsuperscript{116} But temptation is too strong to resist: ‘now came a change, a bitter revulsion, over this tossed mind: hope and patience failed at last, and his virtue, being a thing of habit and traditions, rather than of the soul, wore out...No honest man...repented of his vices so sincerely as Richard Hardie loathed his virtue.’\textsuperscript{117} He descends into vice, and chooses the path of grotesque swindling to stay afloat, first using money from his children’s trust fund to cover his losses, then stealing from his bank’s clients, culminating in taking £14,000 deposited with him by his old rival in love, David Dodd. Dodd, driven mad by this thievery, ends up in a lunatic asylum. When

\begin{itemize}
\item \textsuperscript{112} Ibid., (25 Oct. 1845), p. 179.
\item \textsuperscript{113} Ibid., (22 Nov. 1845), p. 228.
\item \textsuperscript{115} Ibid., p. 101.
\item \textsuperscript{116} Ibid., p. 102.
\item \textsuperscript{117} Ibid., p. 103.
\end{itemize}
Hardie's son discovers the embezzlement, he threatens to expose his father, who has him committed to a lunatic asylum. Out of these unpromising materials, Reade contrives a happy ending, but not for Hardie. In the final chapter, we see him begging in the streets of London, even though he has amassed a large fortune. He is mad, obsessed with money, and ‘writhe[s] under imaginary poverty’. He dies, ‘his end being hastened by fear of poverty coming like an armed man’.\textsuperscript{118}

\textit{Responsibility}

Speculation, then, in discouraging honest enterprise and promoting gambling and the base pursuit of wealth, was viewed as a dangerous disease. The free transferability of shares necessary to facilitate this speculation was thought to enable speculators to shirk responsibility for their actions, allowing them to gamble freely and pass their liabilities to others when things went wrong. This transferability was therefore a focus of criticism. Shares were not solely assets, they could also be liabilities. They \textit{represented a right to a share of the future profits of a company}, but also a responsibility to make good the debts of a company. Thus to transfer shares meant transferring commitments and undertakings, which was both morally and legally dubious. Free transferability undermined the individualistic notions of contract, agency, and personal responsibility central in the nineteenth-century mind to the fair conduct of trade. Private property was thought to come with responsibilities as well as rights. That property owners would fulfil their moral duties was a key justification of the institution of property. Joint stock enterprise with transferable shares, on the other hand, was a depersonalised form of business, in which the owners, often only transient owners, of capital had no say in how their capital was used, and could not therefore ensure that it was being deployed in a manner consistent with high moral standards. Free transferability weakened the responsibilities but left intact the right to unrestricted profit. It allowed speculative investors to get out of trouble if their investments disappointed. Money was commonly given by holders of stock in companies in difficulties as bribes to others to take on the shares, in order to shed their responsibility. Joseph Parkes, a solicitor and parliamentary agent, had seen much of this. He told a select committee

The other day a gentleman, who represented 50 shares in a company, a gentleman of considerable fortune and station, was in great distress fearing proceedings in equity, knowing that the company was involved to the amount of 50,000\textpounds or 60,000\textpounds beyond the assets, in consequence of the failure of a London bank, and he gave

\textsuperscript{118}ibid., p. 473.
500/ to a party to take the assignment of his shares, and to run the risk of all litigation and liability; and I have
assigned shares for gentlemen of considerable pecuniary responsibility to men of straw, in order to avoid the
responsibility. It has been a frequent practice of late years, in extricating persons from bubble and ruin
companies. 119

Parkes admitted that such a practice, in relieving parties of their liabilities, was ‘to a certain
degree, a fraud upon the continuing partners and upon the public.’ 120 Nevertheless, many
unincorporated companies, in an effort to attract investors, held out the lure of freely
transferable shares, assuring the public that by the sale of these securities, the purchaser
immediately stood in law in the place of the vendor. It was in order to prevent such practices
that the courts endeavoured to enforce the responsibility which stemmed from taking a share
in a business. They did this by declaring illegal unincorporated companies which boasted of
transferable shares.

In Duvergier v. Fellows in 1828, Chief Justice Best ruled the Patent Distillery
Company illegal because it claimed to have transferable shares. ‘There can be no transferable
shares’, argued Best, ‘except the stock of corporations, or of joint-stock companies created by
acts of parliament.’ 121 Transferability meant that ‘the assignee was to be placed in the precise
situation that the assignor stood in before the assignment; that the assignee was to have all the
rights of the assignor, and to take upon him all his liability.’ 22 But this was impossible, for a
share was not merely an asset, it could also be a debt, and indefinite and uncertain debts
could not be transferred in this way. The assignor would remain fully liable in law for every
debt contracted by the company before he ceased to be a member.

Vice-Chancellor Shadwell reached a similar decision nine years later in Blundell v.
Winsor, declaring the Anglo-American Mining Company illegal because it held out to the
public the ‘false and fraudulent representation that they might continue partners in the
undertaking just as long as they pleased, and then get rid of all the liability that they had
incurred by transferring their shares to some other person.’ 123 The company claimed that
persons assigning their shares to someone else would cease to have any responsibility, and
that the assignee would stand in the shoes of the assignor. For Shadwell, it was clear that ‘this
could not be done.’ 124 Anyone who claimed that it could, was guilty of promoting a
fraudulent scheme, and ‘The more such schemes are discouraged by Courts of Justice, the
better it will be for Her Majesty’s subjects’. 125

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119 Select Committee on Joint Stock Companies. pp. 239-40. q. 2478.
120 Ibid., p. 240. q. 2479.
121 Duvergier v. Fellows (1828), 5 Bing. 248, 130 ER 1056, p. 1063.
122 Ibid., p. 1063.
123 Blundell v. Winsor (1837), 8 Sim. 601. 59 ER 238, p. 243.
124 Ibid., p. 242.
125 Ibid., p. 243.
These notions had support outside of the courts. By enforcing contracts made and responsibilities incurred, the state was not interfering in trade, merely reinforcing the natural order. J. R. McCulloch thought that ‘In the scheme laid down by Providence for the government of the world, there is no shifting or narrowing of responsibilities, every man being personally answerable to the utmost extent for all his actions.’ William Hawes, a merchant, argued that the under the ‘moral influence’ of the law of partnership, the nation’s commercial greatness excited ‘the envy and admiration of the world’. This law imposed upon every man of business the obligation ‘to liquidate to his last farthing, every obligation he has incurred either by his agents, or himself.’ Such a responsibility was central to notions of ethical business practice, and necessary to give creditors of companies adequate security. Unincorporated companies claiming to trade with transferable shares undermined this security and were acting both immorally and illegally.

Stupid Money

‘One thing is certain’, claimed Walter Bagehot, ‘at particular times a great many stupid people have a great deal of stupid money.’ This ignorance was, according to Bagehot, one of the prime causes of the nineteenth century’s recurrent speculative booms. Nowhere was stupid money more in evidence than in the market for joint stock company shares, particularly in the shares of those legally ambiguous institutions, unincorporated companies. Legal authorities tried to warn the public where they stood in relationship to these bodies, denying that by the sale of a share in an unincorporated company, the buyer stood in the place of the vendor. John George warned that such a transaction ‘cannot by law have this effect in perhaps one case in a thousand.’ Contracts entered into which had not been completely executed, and debts owed by or to the partnership meant that the vendor was still involved by law in the affairs of the company: ‘the vendor in law continues answerable for the performance of the contracts on the part of himself and copartners.’ But still many investors found themselves embarrassed.

That such warnings were required indicated a great degree of public ignorance regarding the legal status of unincorporated companies, and the implications for investors in

these bodies. This was unfortunate, for the public were frequently misled, as a glance at the advertisements on the front page of the *Morning Chronicle* of 7 November 1807 reveals. This was a period of frantic company promotion, and to attract interest, companies were not above making deceptive claims. The Eagle Insurance Company invited applications for its £50 shares thus: 'only 5l. per Share payable by instalments is at present required, as 200,000l. will thus be raised, it is more than probable no further call will ever be made.' Companies often made this assurance, inviting people to buy more shares than they could really afford, leaving them open to ruin if these calls were ever made. Further down the same page the London Genuine Wine Company claimed that 'The advantages that will accrue from this institution is [sic] obvious; as the subscribers will, without risk, be sure to gain at least 20 per cent. on their respective Shares.' Such claims, divorcing the prospect of great gain from the concomitant prospect of great loss, were typical in promotion booms, and had an obvious appeal to passive investors.

Many thought that the public were too eager to believe the claims of companies without checking their legal status first. George Farren, director of the Economic Life Assurance Society, was convinced of the ignorance of many who invested in companies which had obtained acts for suing and being sued. These acts did not incorporate the companies in question; therefore the shareholders who invested in them were still subject to unlimited liability. This fact, Farren argued, was entirely lost on the investors, for 'even the statutes which are of public interest are seldom examined by people in private life'. The result was that 99 out of 100 investors did not look upon their investments as sources of danger. 'The inconvenience and disquietude, which a man would labour under, if he were aware of such responsibility attaching to him, cannot be adequately described'. Denied a hand in the management of the company, such an investor would be quite unaware that the company was facing litigation and that he faced a heavy liability if the decision went against him:

Little could he fancy at the moment, that, if satisfaction of the judgment should be delayed, either by the want of funds, or by the contumacy of those who control them, the very bed on which he slept might be seized on for the amount; nay, that the very knocker at his hall-door might shortly announce the arrival of the holder of a writ of execution, by which his person must be imprisoned if the money should not be paid.  

George Henry Lewis agreed, arguing that the 'ignorance' and 'negligence' of speculators left them open to 'serious consequences'. Exacerbating the situation was the fact that among

130 *Morning Chronicle*, 7 Nov. 1807, p. 1. [Emphasis added.]
132 George Henry Lewis, *The Liabilities Incurred by the Projectors, Managers and Shareholders of Railway and other Joint-Stock Companies Considered; and also the Rights and Liabilities Arising from Transfers of Shares* (London: Smith, Elder and Co, 1845), p. 79.
those who invested were some of the most vulnerable sections of society, who were easy
game for unscrupulous parties. Joseph Parkes commented of the investors of the boom of
1834-7, ‘it was astonishing what a number of ladies and clergymen signed bubble
subscription lists’. These were people ‘who could not, from their want of knowledge of the
world, be on their guard against fraud, or gambling or speculation’.133

This want of knowledge of the joint stock economy was described in Mrs Riddell’s
best-selling 1864 novel, George Geith of Fen Court. Ambrose Molozane, a Hertfordshire
squire, approaches Geith, a City accountant, to find out whether his large investment in a
mining company, whose shares are at a heavy discount, will ruin him. Geith denies any
expertise on the subject of mines: ‘There is only one thing I do know, which is, that I should
never invest one sixpence in them.’134 But it soon becomes clear that the accountant
understands a lot more than the squire, who is entirely ignorant of his legal standing vis-a-vis
the company. He asks Geith, ‘Is a man liable to the extent of his shares?’ Geith tells him that
he is, and that unless the mine is managed on the cost-book principle, he will be liable to the
extent of the company’s debts. He asks the uninformed investor whether the company is
managed in this way, and the duped squire replies, ‘I am sure I cannot tell…[I know nothing
about it except that they told me I should never have to pay more than the first instalment
unless I chose, and that I should be able at any time to sell at a hundred per cent profit.’135 His
one hundred fifty-pound shares, with twenty pounds paid up, are worse than worthless as they
carry with them a huge liability, and Molozane is ruined. When Geith looks into the affair, he
finds that the secretary of the concern was a man named Punt, a scoundrel infamous in
business circles in the City, but unknown to provincials like Molozane. Those in the know
could not possibly be duped by such men, but country-dwellers are without this knowledge
and are incredibly vulnerable.136

This level of ignorance regarding the actual workings of the Stock Exchange and the
activities of those who manipulated it meant that the public stood at a position of some
disadvantage in relation to the informed stockbrokers and promoters who worked on the
inside. The contrast between tricksters and tricked is highlighted in Nicholas Nickleby by the
fortunes of two brothers, Ralph and Nicholas. Nicholas knows nothing about speculation and
is ruined by it; Ralph, however, is on the inside, and therefore profits by other people’s
ignorance. Nicholas inherits his father’s farm and continues in a modest way. He marries, and
has two children. When they were nineteen and fourteen, he considers ways of repairing his
capital, greatly reduced by the expenses of his children’s education.

133 Select Committee on Joint Stock Companies. p. 227, q. 2378.
135 Ibid., p. 25.
136 Ibid., p. 27.
‘Speculate with it,’ said Mrs Nickleby.

‘Spec — u — late, my dear?’ said Mr Nickleby, as though in doubt.

‘Why not?’ asked Mrs Nickleby.

‘Because, my dear, if we should lose it,’ rejoined Mr Nickleby, who was a slow and time-taking speaker, ‘if we should lose it, we shall no longer be able to live, my dear.’

‘Fiddle,’ said Mrs Nickleby.\(^{137}\)

She reminds him of his brother’s success at speculation: ‘Think of your brother! Would he be what he is, if he hadn’t speculated?’\(^{138}\) Nicholas is persuaded to speculate; the result is disastrous, and predictable. We do not even learn in what scheme Nicholas chooses to speculate, such is the inevitability of Nicholas’ fate. Dickens writes: ‘Speculation is a round game; the players see little or nothing of their cards at first starting; gains may be great – and so may losses. The run of luck went against Mr Nickleby. A mania prevailed, a bubble burst, four stock-brokers took villa residences at Florence, four hundred nobodies were ruined, and among them Mr Nickleby.’\(^{139}\)

It was widely felt that the constitution of companies made it likely that shareholders would be defrauded by directors. John George pointed out that directors were given control over vast sums of money, ‘of which perhaps only an undivided hundredth part, or perhaps not even any of it, is their own’. Not only were shareholders trusting others to manage their capital, they were actually ‘shutting themselves out from a voice in the direction of their affairs’. The inevitable result was, George argued, that directors would ‘appropriate considerable sums to themselves, as a recompense for their services.’\(^{140}\) Another commentator noted that company promoters and investors did not ‘meet upon terms of equality’, for the purchaser of shares was ‘the pupil of the seller, and derives from him all the knowledge that he has of the article under sale.’\(^{141}\) The experience of railway companies reinforced the idea that there was not a simple identity of interests between managers and owners. Arthur Smith, writing in the 1840s, argued that, ‘The interests of directors and shareholders in public companies, however much may be said in theory, are not always found in practice to be identical – the former are too powerful for the latter, possessing as they do, a thorough knowledge of all details; whilst the real state of affairs is constantly kept back, misrepresented, or made unintelligible to the proprietors.’\(^{142}\)


\(^{138}\) Ibid.

\(^{139}\) Ibid., pp. 12-13.


\(^{141}\) Anon., *Beware the Bubbles*, p. 11.

\(^{142}\) Smith, *Bubble of the Age*, p. 3.
Punch enjoyed highlighting the gulf of interest that existed between shareholders and management. It carried the ‘Prospectus for a Provident Annuity Company’, which contained provisions such as

The Company’s office will be open at all hours for the receipt of money; but it is not yet determined at what time the paying branch of the department will come into operation.

The secretary will be allowed the small salary of £10,000 a-year...

All monies received for and by the company, to be deposited in the breeches-pocket of the secretary, and not to be withdrawn from thence without his special sanction.  

Radicals were particularly disturbed by the perception that companies were essentially undemocratic: Herbert Spencer, for example, thought that the flaws of the political state were reproduced in corporations. Companies were set up with democratic constitutions: shareholders elected directors, directors elected chairmen. But such arrangements in advance of their time ‘inevitably lapse into congruity with the spirit of the time’; so the companies gradually took on the appearance of the political state and all its vices. Boards became dominated by tyrannical directors and lost control (if they ever had it), and the relation between directors and shareholders came to resemble that between MPs and their constituents, except it was much easier for the director to defraud his shareholders, for ‘in railway government there is no second reading’.  

Nineteenth-century fiction had much to say on the subject, presenting company chairmen not as democrats but tyrants. The ostentatiously humble John Brough, Chairman of the Independent West Diddlesex Fire and Life Insurance Company in The Great Hoggarty Diamond, pays lip service to the idea that the shareholders are in charge, telling his clerk that Gates, the porter, owns three shares in the company, ‘and, in that capacity, [is] your master and mine.’ But Brough’s industrious embezzlement of the company’s funds belies his words. Company boards were portrayed as corrupt dictatorships. In The Ladder of Gold, Richard Rawlings’ railway committee is a farce, for he has two of his old friends, John Peabody and Captain Dingle, on the board. Company cheques required the signature of two committee members, so this gave Rawlings complete control of the company’s finances. Dingle told Rawlings that he thought the committee members ‘do nothing but walk in and

146 Thackeray, Great Hoggarty Diamond, p. 286.
walk out again, pocket their guinea, and throw all the labour upon you...we must vote a piece of plate to you by and by for doing our business for us.'

Rawlings’ enemy, Sir Peter Jinks agreed: the directors were ‘mere puppets in the hands of the chairman’. Trollope’s *The Way We Live Now*, the tale of the corrupt company promoter Augustus Melmotte, presented an even more jaundiced view, this time of a highly aristocratic board:

Nidderdale was filling bits of paper across the table at Carbury. Miles Grendall was poring over the book which was in his charge. Lord Alfred sat back in his chair, the picture of a model director, with his right hand within his waistcoat... In that room he never by any chance opened his mouth, except when called on to say that Mr Melmotte was right...

It was believed that ‘guinea pig’ directors, interested only in receiving their guinea fee for attendance at the board, could easily be found to fill the boards of companies. Men of ‘the leisure classes’ were always available to occupy the board, and to dip their ‘jewelled fingers in the little bowl of sovereigns on the Board table.’ Such boards gave a free hand to the real powers behind companies, whether chairmen, secretaries, or engineers, to plunder the company’s capital and line their own pockets. The form this often took was the sale of supplies to companies by board members at hugely inflated prices. This happened with the Maidstone Gas Company in the 1830s, when the engineer was found to be selling tin tubing to the company at 70 per cent above the London price. Such practices frequently found fictional representation. For example, in *The Ladder of Gold*, Rawlings becomes rich by purchasing lead, iron, and coal himself cheaply, then buying them from himself at large mark-ups on behalf of the company.

**The Age of Appearance**

The potential for investors to be exploited was immense due to the defining characteristics of the joint stock economy. Fraud became easier as the relationship between investors and those whom they entrusted with their money was weakened. Investors were passive, entirely uninvolved in the conduct of a company, and often geographically distant from the company’s works or offices. People trusted companies with their money not because

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147 Bell, *Ladder*, ii, p. 47.
148 Ibid., p. 89.
151 Centre for Kentish Studies, Maidstone Gas Company Records. SEG Aa1.
152 Bell, *Ladder*, iii, p. 74.
of what they knew about the company and the men behind it, but because of reputation and 
rumour. Newspaper reports replaced personal knowledge as the main reason for investment. 
When the papers were filled with puffs for and glowing reports of companies and their 
promoters, it is easy to see how the public were sucked in. No actual information was 
conveyed, but an impression of the respectability of particular ventures or promoters could be 
built up in this way out of thin air. Early in Davenport Dunn, a character looks in the 
newspaper and is struck by

the fact that, turn where she would, the name of Davenport Dunn was ever conspicuous. Sales of property 
displayed him as the chief creditor or petitioner; charities paraded him as the first among the benevolent; joint 
stock companies exhibited him as their managing director; mines, and railroads, and telegraph companies, 
harbour committees, and boards of all kinds, gave him the honours of large type; while in the fashionable 
intelligence from abroad, his arrivals and departures were duly chronicled. 53

Similarly, in Little Dorrit, the ‘evening paper was full of Mr. Merdle. His wonderful 
enterprise, his wonderful wealth, his wonderful Bank, were the fattening food of the evening 
paper that night.154 But despite press coverage, no one really understood Merdle’s business activities: ‘nobody knew with the least precision what Mr. Merdle’s business was, except that it was to coin money’.155 This degree of ignorance means it is very easy for them to be 
defrauded. In the same way, no one understands what Ralph Nickleby, the company 
promoter, does, in Nicholas Nickleby. None of his neighbours know. ‘The tradesmen held 
that he was a sort of lawyer, and the other neighbours opined that he was a kind of general 
agent’. But despite this difference of opinion, ‘he enjoyed the reputation of being immensely 
rich.’156 Similarly, men of high station like Lord Lackington and Adderley Twining entrust 
Davenport Dunn with their financial affairs, knowing nothing of him other than his public 
repute: ‘Clever fellow – wonderful fellow – up to everything – acquainted with everybody. 
Great fun!’157

Whereas personal knowledge of a businessman’s character was the determining factor 
underpinning commercial decisions under the partnership system, rumour and hearsay 
became the deciding factors once joint stock companies took hold. This undeniably increased 
the scope for deception, for people to be fooled by a great show of wealth. In the opinion of 
Victorian commentators, the investing public paid too much attention to appearances and not 

enough to the substance. In William Bayle Bernard’s 1842 work Locomotion, a farce on the
rush and bustle of the railway age, Floss, the crooked auctioneer, avers that, in a world going too fast to dwell upon truth, appearances were all that mattered: ‘in our day, success depends on motion— that now mind as well as matter is going at a gallop, the only [way] to get business, is to seem as if you had it.’ Solidity could be implied by the mere suggestion of wealth: ‘The Age of Appearance’, David Morier Evans called it. Company promoters who knew the importance of show and display would secure investment, because appearances implied wealth, stability, and safe investments.

These ideas were constantly present in nineteenth-century novels and plays. Here, corrupt company promoters are invariably well-dressed. The costume directions for Captain Hawksley in Tom Taylor’s 1855 comedy, Still Waters Run Deep, are indicative of the importance given to show by financiers, and make the point that these men are flashy and insubstantial: ‘fashionable frock coat, fancy tweed trousers, drab vest, fancy cravat’. Later, he is seen in ‘fancy morning coat and smoking cap, buff jean trousers, fancy vest and cravat’. His apartments are ‘gaily and luxuriously furnished’. For the novelist Henry Cockton, the swindler was easily spotted: ‘he is constantly endeavouring to dazzle you by the display of apparent wealth’.

In The Ladder of Gold, Richard Rawlings has a new residence built in Park Lane. It is not merely a luxury, but is part of his grand scheme, the display of wealth was necessary in order to attract more wealth: ‘the splendours of this house...must be regarded as a part of the machinery by which stupendous ulterior projects were to be accomplished.’ In Little Dorrit, Merdle also appreciates the importance of show. His dinners are a display, suggesting great wealth which does not actually exist.

The rarest dishes, sumptuously cooked and sumptuously served; the choicest fruits; the most exquisite wines; marvels of workmanship in gold and silver, china and glass; innumerable things delicious to the senses of taste, smell, and sight, were insinuated into its composition. Oh, what a wonderful man this Merdle, what a great man, what a master man, how blessedly and enviably endowed in one word, what a rich man!

His carriage and horses are chosen to have the same effect: ‘Bright the carriage looked, sleek the horses looked, gleaming the harness looked, luscious and lasting the liveries looked.

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161 Cockton, George St. George Julian, p. ix.
162 Bell, Ladder, ii, pp. 5-6.
163 Dickens, Little Dorrit, p. 563.
rich, responsible turn-out. An equipage for a Merdle. Early people looked after it as it rattled along the streets, and said, with awe in their breath, “There he goes!"\textsuperscript{164}

But Dickens gives the best account of the centrality of show to, and the actual hollowness of, joint stock enterprise in his 1844 novel, \textit{Martin Chuzzlewit}. He describes the offices of the Anglo-Bengalee Disinterested Loan and Life Assurance Company, which could be found in a spacious house, ‘resplendent in stucco and plate-glass’, located in a new street in the city.

Within, the offices were newly plastered, newly painted, newly papered, newly countered, newly floor-clothed, newly tabled, newly chaired, newly fitted up in every way, with goods that were substantial and expensive, and designed (like the company) to last. Business! Look at the green ledgers with red backs, like strong cricket-balls beaten flat; the court-guides, directories, day-books, almanacks, letter-boxes, weighing-machines for letters, rows of fire-buckets for dashing out a conflagration in its first spark, and saving the immense wealth in notes and bonds belonging to the company...Solidity! Look at the massive blocks of marble in the chimney-pieces, and the gorgeous parapet on the top of the house! Publicity! Why, Anglo-Bengalee Disinterested Loan and Life Insurance Company, is painted on the very coal-scullies. \textsuperscript{65}

This attention to show and display pays off. Tigg Montague, the company chairman, tells Jonas Chuzzlewit, ‘There are printed calculations...which will tell you pretty nearly how many people will pass up and down that thoroughfare in the course of a day. I can tell you how many of 'em will come in here, merely because they find this office here; knowing no more about it than they do of the Pyramids. Ha, ha!’ He continues, ‘I can tell you...how many of 'em will buy annuities, effect insurances, bring us their money in a hundred shapes and ways, force it upon us, trust us as if we were the Mint; yet know no more about us than you do of that crossing-sweeper at the corner. Not so much. Ha, ha!’\textsuperscript{166}

These themes were not restricted to fiction. The solicitor John George explained how companies lured investors by creating the appearance of solidity and respectability. A grand-sounding company name was all important: “British and Irish”, “British and North American”, “Mexican” or “Peruvian” or “Royal” or “Imperial” or “United” or “Equitable and Philanthropic”\textsuperscript{167} An ‘imposing’ prospectus was also a necessity, and would contain a long list of respectable people to fill prestigious-sounding offices, ‘Patron, Deputy Patron, Protectors, Protectresses, President, Deputy President, Vice Presidents, Chairman, Deputy Chairman, Managers, Committee of Management, Board of Directors, Court of Directors, Directors, Managing Director, Resident Director’, and so forth.\textsuperscript{168} The public were easily

\begin{footnotes}
\item[164] Ibid., p. 614.
\item[165] Dickens, \textit{Martin Chuzzlewit}, pp. 372-3.
\item[166] Ibid., p. 410.
\item[167] George, \textit{View of the Existing Law}, p. 58.
\item[168] Ibid.
\end{footnotes}
dazzled by a parade of respectable-sounding names, blinding them to the realities of the business before them. J. Hooper Hartnoll, editor of the Post Magazine, complained that people were frequently ‘entrapped by the array of Majors, Captains, Esquires, and M.P.’s which figure in the prospectuses of many rotten companies’. Investors were only too willing to believe that the appearance of wealth was a reality. A pamphleteer writing in the 1830s condemned the system of delusion surrounding joint stock companies which had ‘involved thousands in its ruinous vortex’. He himself was a shareholder of the Real del Monte mining company, and gave an account of one meeting where, after hearing ‘a magnificent report of the riches and prospects of the mine’, the shareholders voted unanimously that the chairman’s portrait should be painted by Sir Thomas Lawrence, at the cost of 1,000 guineas.

Spoof company notices and prospectuses recurred in newspapers and magazines, satirising the gullibility of the investing public. John Bull carried several of these during the mania of 1825. One such was for the ‘Resurrection Metal Company’, which, to capitalise on the current high prices of metal caused by railway construction, proposed to raise all the cannon balls fired during the last war from the bottom of the sea. Punch made these spoofs into an art form, frequently running fake city columns describing the schemes being floated.

A great deal is said of a new company, whose object is to take advantage of a well-known fact in chemistry. It is known that diamonds can be resolved into charcoal, as well as that charcoal can be ultimately reduced to air; and a company is to be founded with the view of simply reversing the process. Instead of getting air from diamonds, their object will be to get diamonds from air; and in fact the chief promoters of it have generally drawn from that source the greater part of their capital...It is intended to declare a dividend at the earliest possible period, which will be directly the first diamond has been made by the new process.

Such spoofs were of course on one level frivolous froth. But they had a serious aim as well: to condemn that toxic combination of greed and gullibility which the joint stock system was thought to encourage. The display of apparent wealth, it seemed, was all that was required to win the trust, confidence and support of the general public. And it was a very general public, as we shall see.

169 J. Hooper Hartnoll, A Letter to the Right Hon E. Cardwell, M.P., President of the Board of Trade, on the Inoperative Character of the Joint Stock Companies Registration Act, as a Means of Preventing the Formation of Bubble Assurance Companies, or of Regulating the Action of those Honourably and Legitimately Instituted, second edition (London: W. S. D. Pateman, 1853), p. 10.
170 Anon., The Real Del Monte Mining Concerns Unmasked, and a Few Facts on Stock Jobbing Schemes, With a View to Prevent the Public From Becoming the Dupes of Self-Interested Speculators and Adventurers, (London: Cochrane and M’Crone, 1833), pp. 10-11.
Novelists and other social commentators frequently remarked on the all-encompassing nature of investment in shares. The railway mania provided the most striking example. For Reade, the investors which fuelled this boom were ‘a motley crew of peers and printers, vicars and admirals, professors, cooks, costermongers, cotton-spinners, waiters, coachmen, priests, potboys, bankers, braziers, dairy-men, mail-guards, barristers, spinsters, butchers, beggars, duchesses, rag-merchants’. Reade tells us that ‘nearly everything, that had a name, and, by some immense fortuity, could write it, demanded its part in the new and fathomless sources of wealth: a charwoman’s two sons were living in a garret on fifteen shillings apiece per week; down went their excellencies’ names for 37,000l. worth of bubbling iron.’

Others were similarly struck. Evans remarked that no one who had ever attended a railway shareholders’ meeting, ‘can have failed to notice the various grades of society thus brought together, from the haughty and aristocratic millionaire, boasting, perhaps, possession of the larger amount of the stock of the concern, to the petty tradesman, holding his little all in an investment of five shares’. Robert Bell presented a similar picture of the mix of railway shareholders:

Ladies of title, lords, members of parliament, and fashionable ungers, thronged the noisy passages [of Moorgate], and were jostled by adventurers and gamblers, rogues and impostors. From his garret in some nameless suburb, the outcast scamp; from his west-end hotel, the spendthrift fop; from his dim studio, the poor artist; from his stared lodging, the broken-down gentleman...poured petitions into Moorgate...to be allowed to participate in the bubbes which were blowing there faster than the impatient public...could catch them.

The spectacle of Duchesses, ladies, and spinsters in the share market was particularly alarming. Women were not expected to engage in business: the law discriminated against married women, refusing to recognise them as partners. They ‘died a kind of civil death’ on marriage, and could not ‘sign Bills of Exchange, make contracts, sue or be sued, collect debts or stand surety’. Though women often played a very active role in the day-to-day business of partnerships, this was a subservient and dependent role. However, joint stock companies presented women with an opportunity for independent commercial activity, and their seizure of this opportunity was remarked upon disapprovingly as incongruous and inappropriate.

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174 [Evans], *City*, p. 89.
177 See for example ‘A Doe in the City’, *Punch*, 9 (1 Nov. 1845), p. 191.
The habit of speculation was thought to reach up to the very top of society. The sight of lords, ladies, and clergy attending Hudson’s soirées attracted much adverse comment, as in this image from Alfred Crowquill’s satirical account of Hudson’s rise and fall.

Fig. 2.4. He gives Soirées! (who goes)? Oh dear! Oh dear!!


The prevalence of the speculating urge in high society was a favourite theme for many. ‘Speculation’, wrote Dudley Costello in his 1856 novel *The Joint-Stock Banker*, serialised in *Bentley’s Miscellany*, ‘is no longer confined to the areas of Capel-court and the Stock Exchange, but peeps from between the rose-hued curtains of the countess’s boudoir, and sits in council with the country-gentleman as he sips his claret in his ancestral halls.’

*This theme was dwelt upon so obsessively because such widespread speculation undermined the stability of the social order. It also set a bad example to the masses, who learnt speculative habits from their superiors. In Lever’s novel, Dunn’s secretary, Clowes, imitating his master, is engaged in the task of promoting the Lough Corrib Drainage and Fresh Strawberry Company, to provide the poor with strawberries.* In Henry Cockton’s *George St. George Julian*, Peter, the servant of a gang of swindlers, wants to improve his lowly position, but having imbibed his employers’ morality, thinks the only way he can do this is by joint stock enterprise, and wishes, ‘If I could only just get up some company, some new association, or

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179 Lever, *Davenport Dunn*, p. 158.
something of that sort.\textsuperscript{180} His mind is teeming with ideas, such as the British and Foreign Association for the Renovation of White Kid Gloves, and the Imperial Poyaisian Association for the Total Intoxication of Mosquitoes.\textsuperscript{181} He fails to see that honest labour is the only way to self-improvement, until the end of the novel when the hero offers him employment on his estate, at two hundred pounds a year.\textsuperscript{182}

Speculation among the lower orders was what really fascinated commentators. What was so disturbing was the belief that in the maelstrom of speculative frenzies, society's hierarchies were dissolved and could be reformed in new, unusual shapes. Speculation by the lower orders was facilitated by the tiny deposits required on shares. Well-to-do Victorians increasingly believed that their servants and workers were dabbling in shares and that they might in this way make enormous profits and achieve independence. The amazing turnarounds in fortune that could be occasioned by stock market investment were occasionally employed for comic effect. Thackeray's Diary of C. Jeames de la Pluche, Esq., serialised in \textit{Punch} in 1845-6, told the story of James Plush, a footman, who speculated in railways and made a fortune.\textsuperscript{183} Most of the stories revolved around his pretensions to gentility. \textit{Punch} carried several cartoons on the incongruity of the poor becoming players on the stock market.

\textbf{Fig. 2.5. Railroad Speculators}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{Fig25.jpg}
\caption{``How many hundred shares have you wrote for?''}
\end{figure}

\textit{Source: \textit{Punch}, 8 (31 May 1845), p. 244.}

\textsuperscript{180} Cockton, \textit{George St. George Julian}, p. 106.
\textsuperscript{181} Ibid., pp. 76, 104.
\textsuperscript{182} Ibid., p. 269.
Despite these lighthearted views of the levelling effects of speculation, Victorians were clearly unsettled by the democratic implications of such investment. Of the railway mania, the Stock Exchange’s Edward Callow later recalled, ‘a solicitor or two, a civil engineer, a Parliamentary agent, possibly a contractor, a map of England, a pair of compasses, a pencil, and a ruler, were all that were requisite to commence the formation of a railway company.’\textsuperscript{184} Such resources were in the reach of many. Joint stock speculation afforded facilities for the poor to rise to riches. Lord Overstone wrote to a friend in the early 1860s that ‘Joint Stock Banks and Limited Liability Companies – are the order of the day – and the boldest man seems the most likely to be prosperous...The world is going up and down stairs, without laying hold of the banister.’\textsuperscript{185} All social stability was sacrificed in times of speculation: stock brokers darted around, ‘like messengers of doom, with the fate of thousands clutched in scraps of dirty paper in their hands.’\textsuperscript{186} People willingly placed their fates in such unworthy hands. The result was, as Dunn’s partner in joint stock crime, Hankes, opines ‘There is no such thing as rich or poor now, for you may be either, or both, within any twenty-four hours.’\textsuperscript{187}

Bell’s \textit{The Ladder of Gold} reveals great concern that the joint stock system allowed unworthy parvenus to rise above their station. Early in the novel, a young Richard Rawlings, beset by poverty and drudgery, comes to realise the power of wealth and resolves to dedicate his life to its pursuit, at all costs: ‘It is the ladder by which men ascend to power over their fellow men. Why should not I, too, plant my foot upon it, and climb as well as others?’\textsuperscript{188} His climb is astonishingly successful, and he becomes a powerful railway director. But his ambitions stretch far beyond power and wealth: he wants to become a gentleman, respected in the highest social circles. He later reflects that, \textit{courted by a venal crowd of great people [who] insisted upon setting me up for worship in their circles...I determined to fix myself there, so that they could not shake me off when I had served their turn.} To this end, he secures the marriage of his daughter into the aristocracy. Melmotte attempts the same in \textit{The Way We Live Now}, while in \textit{Davenport Dunn}, Dunn calculates ‘that a recognised station amongst the nobles of the land was the only security against disaster.’\textsuperscript{189}

But their grandiose plans always meet with failure: their financial empires collapse, and they are punished by suicide (Melmotte, Merdle), murder (Montague, Dunn), ruin

\begin{footnotesize}
\begin{enumerate}
\item\textsuperscript{184} Cited in Kynaston, \textit{City of London}, p. 153.
\item\textsuperscript{186} Bell, \textit{Ladder}, i, p. 276.
\item\textsuperscript{187} Lever. \textit{Davenport Dunn}, p. 324.
\item\textsuperscript{188} Bell, \textit{Ladder}, i, p. 31.
\item\textsuperscript{189} Lever, \textit{Davenport Dunn}, p. 338.
\end{enumerate}
\end{footnotesize}
(Brough, Cassilis), or repentance and the adoption of more wholesome values (Hawk, Rawlings). In each instance, it is made clear to the reader that corruption leads only to short-term success. In this way, the alarming democratic implications of joint stock investment are contained. While speculation may lead to temporary upheavals and reversals in the established order, the status quo is eventually restored. Such views were consistent with broader social opinion, which was certain that manias would always end with a 'day of reckoning', when the guilty would be punished. Particularly reassuring for the reader was the story which ended with the chastened anti-hero realising the error of his ways and undertaking to choose the path of honest labour. This is the fate of Richard Rawlings. He ends by accepting the centrality of family, love and labour, and renounces speculation. We are told that after the end of the novel, he begins 'an industrial career, in which everything depended on quiet perseverance, and in which the reputation of having a genius for creating wealth out of bubbles would have damaged rather than served him. He was glad enough to part with that dangerous prestige, and to address himself to small gains, procured by steady and patient efforts'. He vows that from now on he will 'labour as a man like me ought to labour.' The new Rawlings knows his place, declaiming, 'Let no man who rises from obscurity hope to bridge over with gold the gulf that divides him from them. If he be wise, he will keep in his own sphere.' Lord Elton, who has disagreed with Rawlings so much in the course of the novel, agrees with Rawlings here: 'the wise man, whether he is lord or commoner, will do best by keeping in his own sphere; and I who never flattered you, and who kept aloof, at the height of your prosperity, from an intercourse which was repugnant to my tastes and habits, may now say with regret and without offence, that it had been happier for us both if you had acted upon that conviction a little earlier.' McCulloch might have been reviewing the novel when he asserted that mankind should look for their advancement not to speculation, but 'to the blessing of Providence on their industry, perseverance, and economy, and to nothing else.'

But in spite of the reassuring resolutions to these novels, authors, it seemed, were not attempting to induce complacency among their readers. It is difficult to agree with Neil McKendrick who has argued that evil entrepreneurs were employed in nineteenth-century fiction as scapegoats upon whom all the blame for the instability and insecurity of the

190 The Times, 1 Jul. 1845, p. 4. See Hilton, Age of Atonement, pp. 131-6 for views on the trade cycle and retribution for speculation.
191 Bell, Ladder, iii, pp. 316-17. It is amusing to wonder whether George Hudson, on whom Rawlings was closely based, ever read the book.
192 Ibid., p. 305.
193 Ibid., p. 303.
194 Ibid., pp. 303-4.
Victorian economy could be heaped. These businessmen were certainly set up and knocked down with great regularity in the nineteenth-century novel, but the enactment of the ritual was not intended to make for comfortable reading. In Davenport Dunn, Lackington and Twining are complacent about men such as Dunn: they have wealth, but not ‘prestige’, and are ultimately of little consequence. They exert only ‘a passing influence on our society’, having some influence when rich, but vanishing as soon as they suffer a reversal, leaving ‘no trace of their existence behind them. The bubble burst, the surface of the stream remains without a ripple.’

But Lever clearly disagrees with them. He is outspoken as to the moral failings of the public which had paid ‘degrading homage’ to money. Gold had become ‘the standard of all moral excellence’. ‘From the highest in the Peerage to the poorest peasant, all were involved in the same scheme of ruin’. But his ‘primest flatterers’ were ‘great in station and rolling in wealth; they were many of them the princes of the land.’ Many others were equally keen to condemn the worship of wealth on which the success of fraudsters depended.

In George St. George Julian, Bull, the stockbroker, boasts, ‘The world scorns poverty, not wealth: nor does it ever scorn those who possess it…What is it to the world where the money comes from, or how it was obtained?’

Another fictional speculator reasons ‘If the sportsman returned from the field laden with game, who would scrutinize the mud on his gaiters?’ He is aware ‘how deep a man may wallow in the mire, how thoroughly he may besmear himself from head to foot in the blackest, foulest mud, and yet be received an honoured guest by ladies gay and noble lords, if only his bag be sufficiently full.’

Such conclusions were borne out by the behaviour of the investing public in a number of novels. When Meredyth Powell Jones, the ‘hero’ of Dudley Costello’s The Joint-Stock Banker, stands for election, the ‘excitable inhabitants’ of the Welsh borough in question ‘got furiously drunk, and rolled about the streets in glorification of “The Man of the People;”’ and if their brains had not been topsy-turvy already they would have stood upon their heads for “The Man of the People,” and have crawled on their hands and knees to worship “The Man of the People.” In Little Dorrit, serialised at the same time as Costello’s novel, Dickens

197 Lever, Davenport Dunn, p. 64.
198 Ibid., p. 679.
199 Ibid., p. 683.
200 Ibid., p. 682.
201 Ibid., p. 683.
203 These are the thoughts of Alaric Tudor, the civil servant lured into corrupt speculation by Undy Scott. Trollope, Three Clerks, pp. 169, 186.

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reached great peaks of indignation, arguing that by elevating Merdle to the position of a God, the public had proved its moral bankruptcy:

All people knew (or thought they knew) that he had made himself immensely rich; and, for that reason alone, prostrated themselves before him, more degradedly and less excusably than the darkest savage creeps out of his hole in the ground to propitiate, in some log or reptile, the Deity of his benighted soul.205

Walter Besant and James Rice’s fraudulent financier Gabriel Cassilis is a ‘Colossus of wealth’.206 ‘Success was his; the respect which men give to success was his; no one inquired very curiously into the means by which success was commanded; he was a name and a power.’207 In The Ladder of Gold, Bell stressed that Rawlings would have been able to harm no-one if it were not for the ‘gaping credulity’ of society, which ‘voluntarily prostrate[d] itself before the sorcery by which it is first dazzled and then duped’.208 Rawlings’ career demonstrated how ready the privileged were ‘to open their arms to Mammon, through whatever miry channels it approaches, or in whatever shape it presents itself.’209 Emma Robinson was equally scathing in her 1851 novel The Gold-Worshippers. The aristocracy is pilloried for its devotion to its ‘false god’, Humson: ‘The idol entered, and all the worshippers were instantly we cannot exactly say prostrate, except in soul’.210 ‘The idol was certainly worthy of his worshippers’, comments Robinson, who continues, ‘surely the crawling priests and frequenters of the temple were more to be despised and condemned than the object of their adoration!’211 Humson was, of course, Hudson, who had, according to Carlyle, revealed the true aspirations and desires of the general public. The electors of Sunderland may have returned him to Parliament, but the greater public had ‘voted’ for him in a more significant way, by purchasing his shares.

Hudson the railway king, if Popular Election be the rule, seems to me by far the most authentic king extant in this world. Hudson has been ‘elected by the people’ so as almost none other is or was. Hudson solicited no vote; his votes were silent voluntary ones, not liable to be false: he did a thing which men found, in their inarticulate hearts, to be worthy of paying money for; and they paid it. What the desire of every heart was, Hudson had or seemed to have produced: Scrip out of which profit could be made.212

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205 Dickens, Little Dorrit, p. 556.
207 Ibid., p. 483.
208 Bell, Ladder, ii, pp. 6-7.
209 Ibid., i, p. 252.
And so a subscription was raised for a statue in Hudson’s honour. Statues to such men were ‘high columns, raised by prurient stupidity and public delusion, to blockheads whose memory does in eternal fact deserve the sinking of a coalshaft’. Carlyle found them as offensive as ‘dungheaps laid on the streets’.213

Judgements in the aftermath of the railway mania revealed some unlikely bedfellows. The Reverend John Cumming judged: ‘What a terrible standard is that by which the city estimates man...To be a “respectable” man means to be rich.’214 Herbert Spencer agreed, condemning the ‘indiscriminate respect’ which was paid to wealth by ‘an immoral public opinion’, identifying it as the ‘chief cause of the dishonesties’ perpetrated by businessmen. People were praising the external signs of wealth rather than the qualities which had produced the wealth, and were consequently guilty of ‘idolatry which worships the symbol apart from the thing symbolized’.215 This idolatry was satirised in *Punch* in 1845 where the railway was depicted as a ‘Juggernaut’, a crude Hindu idol.

Fig. 2.6. The Railway Juggernaut of 1845

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213 Ibid., p. 244.
215 Herbert Spencer, ‘Morals of Trade’, in Essays: Scientific, Political, and Speculative, 3 vols (London: Williams and Norgate, 1883), ii, pp. 140-6. Spencer’s article was later republished, with his permission, by the
At an annual festival the Juggernaut was wheeled through the town and worshippers are supposed to have thrown themselves under its wheels. Here, railway investors can be seen bringing tributes of money bags to their idol, the Railway Juggernaut, and falling down in worship before it, and being crushed in the process.

Critiques of the blind worship of wealth were therefore by no means confined to the novel; on the contrary, they had a remarkably broad cultural base. Nevertheless, novels provided the fullest exposition of these themes. Their treatment of the inevitable fall of the capitalist villain reinforces the theory that what was being attacked was not the individual fraudster, but the society which allowed him to thrive, albeit temporarily. When the villain’s empire collapses, the reader is not invited to kick his prostrate form, but to contemplate the hypocrisy of those who had once worshipped the money-God. Our indignation is directed towards the flatterers and sycophants, not the objects of their devotion. As soon as news of Davenport Dunn’s death spreads, though no-one had hitherto dared to question the man’s integrity, society is unanimous in condemning him: ‘what noble words of reproof fell from Pulpit and Press upon the lust of wealth, the base pursuit of gold!’

Towards the end of The Way We Live Now, Melmotte actually assumes a certain dignity as his well-bred hangers-on gradually desert the sinking ship. ‘No one now had a word to say in his favour’, just as no-one had a bad word to say, at least in public, when he was riding high. When news of his forgeries reaches the Commons, the politicians who had formerly competed for his services refuse to meet his eye, and downstairs in the dining-room ‘even the waiters were unwilling to serve him’.

The story was the same every time: worship, then rejection. Dickens thought the chances of the public ever learning its lesson was nil. After Merdle’s collapse, he has one character note:

The next man who has as large a capacity and as genuine a taste for swindling, will succeed as well. Pardon me, but I think you really have no idea how the human bees will swarm to the beating of any old tin kettle; in that fact lies the complete manual of governing them.

Victorian novelists’ treatment of business themes has been dismissed by McKendrick as ‘literary Luddism’: primarily an emotional rather than an intellectual reaction to the ills


216 Lever, Davenport Dunn, p. 683.
218 Ibid., p. 640.
produced by industrialisation and urbanisation, and a violent rejection of the commercial society which had grown up in the nineteenth century. But such claims, quite apart from unfairly stigmatising opponents of capitalist 'progress', obscure the true nature of these novels and plays. McKendrick is concerned with cataloguing hostile representations of 'business' and 'businessmen', but he treats these terms monolithically. He makes a fleeting effort to distinguish between different types of entrepreneurial activity, but for the bulk of his essay, he switches backwards and forwards uncritically between representations of merchants, manufacturers, and company promoters. The result is that he treats hostility to those involved in joint stock enterprise as simply part of a more general distaste for money making, rather than exploring the distinctive qualities of this hostility. While it is true that diatribes against 'Mammonism' were frequently indiscriminate in scope, it was just as common, perhaps more so, for commentators to seek to draw a contrast between honest and dishonest business practice: not all commerce was criminal. Thus it is difficult to agree with Martin Wiener, who has pointed to the work of these novelists as evidence of a straightforward rejection of commercial society and a preference for gentry values. Many Victorian condemnations of joint stock enterprise contain representatives of ideal commercial behaviour. Dickens was particularly adept at this. His Nicholas Nickleby contains the Cheeryble brothers, benevolent German-merchants, to balance the evil Ralph, while Little Dorrit juxtaposes the honest partners Daniel Doyce and Arthur Clennam with the corrupt banker Merdle. Similarly, in Robert Bell's The Ladder of Gold, Rawlings is contrasted to the City merchant Sir Peter Jinks. The latter 'belonged to that section of the mercantile community which stands as proudly and ostentatiously on the integrity and respectability of its transactions, as the aristocrat upon his quarterings. His position was in the fullest sense legitimate.' The two types of enterprise are explicitly contrasted in the description of Jinks: 'the habits of a counting-house, where business was conducted on the strictest principles, had rendered him distrustful of all speculations and speculators.' Jinks spends considerable time and effort in accumulating evidence to prove Rawlings' frauds, to lay open the 'whole system of railway jobbing', and his efforts culminate in an exhaustive denunciation of Rawlings in the Commons. Nearly twenty years later the same contrasts were still made. Tom Taylor and Augustus William Dubourg's comedy, New Men and Old Acres, which first

221 Ibid., p. xxiv.
223 'If I have a prejudice connected with money and money figures', Doyce says, 'it is against speculating'. Dickens, Little Dorrit. For a discussion of this point in relation to Little Dorrit, see N. N. Feltes, 'Community and the Limits of Liability in Two Mid-Victorian Novels', Victorian Studies, 17 (1974), pp. 355-69.
224 Bell, Ladder, ii, p. 87.
225 Ibid., p. 88.
played in 1869, presented two types of ‘new men’: Sam Brown, the honest Liverpool
merchant, who is brought down by City speculations, carried out by Benjamin Bunter and
Berthold Blasenbalg, the less respectable class of parvenu. Brown is honest, honourable, and
is sympathetic to the misfortunes of others. The company promoters Bunter and Blasenbalg
share none of these qualities. Brown learns that the estate of the Vavasours, an old but poor
aristocratic family, is iron-rich. Bunter and Blasenbalg, who want to force the Vavasours out
of their property, try to keep this information secret. But Brown calls for ‘fair dealing
between gentlemen’.

BUNTER. What’s that got to do with us? Keep on the right side of the law and don’t fly in the face of
Providence. It’s sinful! If people went on your tack, how do you think business would go on? How would
fortunes be made?

BROWN. As fortunes should be made, by fair dealing and hard work. If the world went on my tack, thousands
of families wouldn’t be ruined to enrich a few score of successful speculators, and British enterprise would not
stand in the pillory as it does now, with ‘Lie’ branded on its forehead!226

Mrs Riddell was intolerant of the immorality of railway boards and of fraudulent mining
schemes, but proselytised the virtues of commerce. Trade, she wrote in George Geith, had yet
to find a writer worthy of it, yet it was ‘the back-bone of England’.227 The author celebrated
the virtues of thrift, self-denial, and hard work which she thought lay behind the country’s
commercial greatness, and was critical of those who did not share these values.

McKendrick is not ignorant of such positive representations. Indeed, in a later essay,
he is at pains to stress that positive literary representations of businessmen, though often
ignored today, are easy enough to find. But because he insists on viewing ‘business’ as a
single entity which authors were either for or against, he misses the point of these
representations, and consequently accuses novelists of ambivalence or inconsistency.228
While the pursuit of wealth did engender mixed feelings, these commentators’ attitudes to
specifically joint stock enterprise were both consistent, and unambiguously hostile.

226 Ibid., iii, pp. 35-7.
227 Tom Taylor and Augustus William Dubourg, New Men and Old Acres, in Michael R. Booth (ed.), English
228 Trafford, George Geith, p. 106.
Conclusions

The sins of speculation were therefore myriad. This immoral activity broke the relationship between work and profit; people could get rich without working, and could speculate extensively without risking their all: gambling in the shares of limited companies promised the unlimited possibility of gain, with a limited possibility of loss. It also conjured up images of the natural order of society undermined, with servants and workers winning fortunes on the markets and gaining their independence from their employers, and coarse, corrupt parvenus buying their way into respectable positions in society. In this way, social stability would be lost; economic stability would be another victim. Over-investment in companies would draw capital away from legitimate enterprise and the whole economy would be dislocated. On a more personal level, the anxieties and losses deriving from speculation were destructive of domestic bliss: homes were lost and families broken up by the demon of speculation.

A concomitant of this commonly-held view of speculation was the belief that the government had a duty to limit the opportunities for, and scope of, speculation, to protect individuals from moral and material ruin, and to guard the well being of the economy. These views, combined with the preference for individual over corporate enterprise detailed in chapter one, were regularly expressed in the courts and in Parliament. They were embodied in the terms of the Bubble Act of 1720. They determined executive and legislative responses when applications were made by companies for special privileges. They led to the equation in the public mind between ‘the clever knavery which amasses wealth out of the shipwrecked savings of laborious parsimony’ and ‘the felonious violence which breaks open a house or assaults a passenger of the highway’.23

Yet these views did not remain unchallenged. They found themselves increasingly assaulted by alternative attitudes to joint stock investment advanced primarily by the promoters of joint stock companies. The outcome of this challenge is explored in part two.

230 The Times, 22 Mar. 1844, p. 4.
PART TWO:

THE CHANGE IN THE LAW
3.

Change Contained

The previous two chapters have shown that suspicion of, and hostility to, joint stock enterprise and speculation could be detected on many levels of society in early- to mid-nineteenth-century Britain. But alternative views were being propounded. These arguments twice received a thorough airing during booms of company formation, once during the Napoleonic Wars, and once after. Both periods were characterised by extensive speculation in the shares of unincorporated companies in a wide variety of trades, though the second boom was on a much greater scale. The bulk of these companies were, in law, simply large partnerships, and in both periods there was extensive debate as to their legal status. As a result of this debate, the law relating to unincorporated companies was revised in 1825, and during a third period of speculation and company formation in the 1830s, the law was amended twice more.

It will be argued that these changes in the law cannot be seen as landmarks in the evolution of ‘modern’ company law, nor as evidence that those who supported free incorporation and general limited liability were gaining the upper hand. A consideration of the first 40 years of the century reveals a great degree of consistency in the legal position of companies, and in both official and popular conceptions of companies and speculation. The repeal of the Bubble Act in 1825 was promoted by the Government partly to redistribute the burden of making decisions on incorporation from Parliament to the Board of Trade, and partly to dispense with what had come to be seen as an irrelevant relic of the eighteenth century. Though the measure was certainly inspired by a sense of the benefits some of the companies promoted since the 1790s were bringing to the country, it did not signal a desire to make access to corporate privileges automatic: firms would still have to approach either Parliament, or preferably the Board of Trade, for these privileges. The Whig Acts of 1834 and 1837 built on the method of reform adopted by the Tory Government in 1825, demonstrating considerable aversion to parliamentary incorporation after the extent of the corruption of private bill committees had been revealed during the boom of 1824-5. These measures sought to extend access to corporate privileges, while retaining the state’s control. Thus, although there were undoubtedly moves to transform partnership law in this period, such proposals were thwarted; the main thrust of the law, that incorporation was a privilege to be granted by the state on a case by case basis, rather than a right to be enjoyed by all, held throughout these years.
An Almost Universal Excitement

The resumption of war with France in 1803 promoted an increase in economic activity in Britain, one manifestation of which was a boom in joint stock company formation between 1806 and 1809. There were two key differences between this period and the 'canal mania' of 1791-4, during which 81 canal acts were passed. Firstly, in the 1806-9 boom, companies were promoted in many sectors of the economy, not just internal navigation. Secondly, whereas the canal companies, because of their need of compulsory powers of purchase, had all been incorporated by Act of Parliament, the bulk of the companies of the latter boom were trading without any legislative sanction. Both factors combined to make this boom deeply contentious. Whereas canal companies were formed to carry out tasks which private individuals or partnerships would have found impossible, now companies were being projected to compete with existing businesses. At the height of the enthusiasm for promotion, one trader complained: ‘in every article of consumption, in every species of manufacture, in every line of trade, there are now projects of Joint-Stock Companies going on.'¹ This activity was not restricted to the metropolis: ‘every county, every town has now its Joint-Stock scheme; every provincial paper is filled with their plans; every county Banking Shop has its prospectus’.² In 1807, there was, Thomas Tooke later claimed, ‘an almost universal excitement’ which led to ‘hazardous adventure’.³ A correspondent of the Monthly Magazine produced a list of 42 companies promoted during the year, set out in the table below. As can be seen, nearly all of them were formed in trades which could be executed by individuals.

Fig. 3.1. Companies Formed During 1807

<table>
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<tr>
<th>Sector</th>
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<tr>
<td>Brewing</td>
<td>7</td>
<td>Provisions</td>
<td>4</td>
</tr>
<tr>
<td>Insurance</td>
<td>5</td>
<td>Coal</td>
<td>3</td>
</tr>
<tr>
<td>Wine</td>
<td>5</td>
<td>Clothing/Textiles</td>
<td>3</td>
</tr>
<tr>
<td>Banking Finance</td>
<td>5</td>
<td>Copper</td>
<td>2</td>
</tr>
<tr>
<td>Distilling</td>
<td>4</td>
<td>Misc.</td>
<td>4</td>
</tr>
</tbody>
</table>


¹ 'A Plain Dealer', letter in Morning Chronicle, 5 Nov. 1807, p. 3.  
² Ibid.  
Many greeted the projects with unwavering contempt. One correspondent of the *Morning Chronicle* avowed his ‘intention of taking my wine, beer, milk, and coals from the individuals who have hitherto supplied me with those articles quite to my satisfaction’.4

These enterprises clearly did not enjoy the same status as the canal companies of the 1790s had done. But causing equal controversy was the fact that these companies were formed without legislative sanction, without any act of incorporation, yet claimed to trade with all the advantages enjoyed by corporations. They attempted to do this by exploiting trust law. Of course, an unincorporated group of individuals could not own property as a group. But property could be held in trust for it. This was achieved by means of mutual covenants between the shareholders of the company and the trustees selected by them. A deed of settlement was drawn up which set out these covenants, and the trustees undertook to observe the terms of the deed and to use the company’s funds only for the purposes specified.5 The company was therefore enabled to act through its trustees rather than as individuals, approximating the corporation’s ability to sue and be sued in its own name. Lawyers who drew up the trust deed also attempted to make the company’s shares freely transferable, and in some cases, also attempted to limit the liability of shareholders.6

The legality of these arrangements was in considerable doubt, however. This was made clear when an anonymous individual began criminal proceedings against the engineer and entrepreneur Ralph Dodd, who had promoted two companies, the London Paper Manufacturing Company and the London Distillery Company.7 The Attorney General sought an information against Dodd in November 1807. The prospectuses of both companies had promised transferable shares and limitation of liability by deed of trust, thus seemingly contravening the so-called ‘Bubble Act’ of 1720.8

The Act, passed at the height of the speculative mania of 1720, had sought to curb the excesses of company promotion by preventing unincorporated companies from behaving like incorporated ones. The Act declared that ‘the acting or presuming to act as a corporate body, the raising, or pretending to raise, transferable stock, the transferring, or pretending to transfer or assign, any share in such stock, without legal authority, either by Act of

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4 An Old-Fashioned Fellow”, letter in *Morning Chronicle*, 9 Nov. 1807, p. 3.
7 Ron Harris has noted that the more common procedure would have been to sue Dodd based on a common-law action. But instead, the plaintiff invoked the Bubble Act, ‘the less obvious path, which placed the State and the Law Officers on his side.’ Ron Harris, *Industrializing English Law: Entrepreneurship and Business Organization, 1720-1844* (Cambridge: Cambridge University Press, 2000), p. 236.
8 6 Geo. I, c. 18. The Act’s full title was ‘An Act for better securing certain Powers and Privileges, intended to be granted by His Majesty by Two Charters, for Assurance of Ships and Merchandize at Sea, and for lending Money upon Bottomry; and for restraining several extravagant and unwarrantable Practices therein mentioned.’ The term ‘Bubble Act’ only became commonly used in the early nineteenth century when narratives of the ‘South Sea Bubble’ were widely circulated. For an account of the Act’s passage, see Harris, *Industrializing English Law*, ch. 3.
Parliament, or by any Charter from the Crown’ was illegal. This was because companies which did these things tended ‘to the common grievance, prejudice, and inconvenience of the subjects in general, or great numbers of them, in their trade, commerce, or other lawful affairs’, and were ‘nuisances’ which had to be suppressed.  

Soon after the Act’s passage, however, the mania for companies subsided, and despite the spread of unincorporated business activity in some sectors of the economy in the late eighteenth century, the Act had not been invoked since 1723. The rising tide of speculation in the early 1800s, though, brought the events of 1719-20 back into the collective consciousness. Detailed accounts of the mania were published, describing the ‘infatuation’ and ‘delusion’ of that period. The spectre of the South Sea Bubble was revived in Parliament. The provisions of the Bubble Act were reprinted in daily newspapers, ‘as a caution to the public against incurring the serious penalties of that Act.’ Company promoters, many of whom had become public figures by dint of their energetic advertisement of their schemes, became figures of ridicule. They formed the subject of a print published in the Satirist in October 1809.

Fig. 3.2. The School of Projects

Source: BM 11439, English Cartoons and Satirical Prints, 1320-1832, microfilm.

9 6 Geo. 1, c. 18.
10 David Macpherson, and Adam Anderson, Annals of Commerce, Manufactures, Fisheries, and Navigation, 4 vols (London: Nichols and Son, 1805), iii, pp. 76-103; Anonymous, An Account of the South Sea Scheme and a Number of Other Bubbles...With a Few Remarks Upon Some Schemes Which Are Now in Agitation (London: J. Cawthorne, 1806). The latter account was extracted from William Maitland’s History of London, first published 1739.
11 In a debate on a gas light bill, one MP warned the project ‘might turn out ultimately a second South Sea bubble.’ Another likened it to the notorious Ayr Bank, which had failed in the 1770s. PD, first series, 14 (2 Jun. 1809), cc. 860-1.
12 Morning Chronicle, 12 Nov. 1807, p. 1; see also Morning Post, 13 Nov. 1807.
Centre stage is Frederic Winsor, the promoter of London gas and banking projects, standing in front of a broken gas burner from which flames issue, indicating the perils associated with his schemes. On the left are crouched Ralph Dodd and an accomplice. In addition to his paper manufactories and distilleries, Dodd was engaged in promoting schemes for a tunnel from Gravesend to Tilbury, and bridges at Vauxhall and the Strand. These projects are satirised here: Dodd and his friend can be seen carefully constructing a tunnel between the earth and the moon, which are already connected by a bridge. Towards the right of the scene stands George Leybourne, alleged to have a plan for making sheep grow to the size of oxen. Here he is shown feeding a ram with a prospectus for Dodd’s Vauxhall Bridge. On the far right of the picture sits William Brown, promoter and manager of the Golden Lane Brewery and the London Bank, smugly overseeing these happenings. Company prospectuses litter his chair and the floor around him. A statue of Hope looks down on him: at best, these promoters are shown to possess an excess of hope and optimism, at worst, they are depicted as dangerous fraudsters.  

The victims of these fraudsters are the subject of another print of 1809.

Fig. 3.3. Joint Stock Street

Source: BM 11441, English Cartoons and Satirical Prints, 1320-1832, microfilm.

Here, rows of gullible speculators gaze upwards at adverts for what are obviously bubble schemes plastered on a wall outside the ‘Hospital for Incurables’, a reference to the demented investors below. These range from well-dressed ladies and city men, to country types, to an old Jewish man carrying a sack of old clothes, stressing the degree to which the enthusiasm for speculation permeated the whole of society. The schemes advertised are either for spurious enterprises – ‘a New Company of Mowers of Beards having discover’d a New Machine to Shave 60 men in a minute’, ‘a New Cabbage and Potatoe Company Warranted Genuine No cooking required’ – or for those best conducted by individuals – a milk company, a coffin company, a blacking company, a match and tinder company with a capital of two million and five farthings a share. In case the point was missed, a sign saying ‘Bubble Alley’ leads off to the right, above an advertisement placed by Peter Puff. Smoke from chimneys fills the air, a metaphor for the ethereal enterprises advertised below. Such cartoons suggest that the revival of the Bubble Act at a time of extravagant company promotion struck a chord with a substantial section of public opinion.

The world of company promotion was thrown into uncertainty by this revival, and those connected with companies were forced into print to prove the legality and utility of their businesses. Anticipating the terms of the debate which would take place over the next fifty years, they couched their arguments in the language of laissez faire and freedom from judicial and legislative interference. ‘Philopatris’, a representative of the Golden Lane Brewery, decried the absurdity of the attempts made in the press and elsewhere ‘to mislead the Country, to suppose that an Association of Gentlemen for commercial purposes is illegal. Such Associations have existed for centuries past; and are we now, in this age of civil liberty, to be deprived of commercial freedom?’. For Henry Day, solicitor to the British Ale Brewery, the case for joint stock companies was part of the larger argument for free trade and ‘against all judicial interference with commercial speculations’. Curiously, given Adam Smith’s hostility to extensive joint stock operations, he invoked Smith in justification of his position.

These writers did not rest their argument on the desirability of freedom from interference alone: they also wanted to show that their companies actively promoted the national interest, and were therefore justified by their public utility. This utility was defined

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14 George, Catalogue, pp. 883-4.
17 Ibid.
in terms of the extent to which they promoted competition. Challenging accepted opinion, Frederick Eden, author of *The State of the Poor*, and Chairman of the Globe Insurance Company, in an anonymous pamphlet defending joint stock enterprise, argued that monopoly was ‘not essential to a corporate body’, reasoning that ‘the obvious effect of creating non-exclusive companies, in addition to existing traders, is to add to the assortment of dealers which the public possesses, and consequently to increase their chance of benefit from competition.’

‘Philopatris’, concerned with defending the brewing and distilling companies, did so by claiming that ‘public’ companies such as these broke up the existing monopolies already established by individuals in these trades. The ‘rise and progress of the present spirit for Public Institutions...sprang from oppression in the absence of competition.’

Day went further, arguing that these ‘public spirited associations’ were ‘salutary, reasonable, and necessary coadjuvants to the legislature in counteracting fraud, abuse, and extortion.’ Companies could help to ‘rescue the public from that overgrown Aristocracy of Capitalists, by which it has so long been oppressed.’ Company spokesmen were positioning themselves on the side of the public interest against monopolists and fraudsters and presenting themselves as tools to combat these evils by giving the public choice in the marketplace.

These arguments equipped proponents of companies to contradict critics who deemed illegal all companies which raised a transferable stock without legal authority. They argued that a company’s legal status depended not on whether it had transferable shares, but on its utility. On their understanding, the Bubble Act only outlawed companies with transferable shares if these companies could be considered nuisances, that is, if they entered trades where there was already sufficient competition. They believed ‘that which is of public utility, cannot be a “nuisance”, either in common law or in common sense’. Transferability of shares alone was not a test of legality, utility was. Companies which promoted competition passed this test.

The supporters of joint stock schemes in Parliament challenged the association in the public mind between companies and monopoly, by arguing that companies, far from establishing monopolies, would in fact undermine existing monopolies. Speaking in support of the proposed Marine Society Fishery Bill in 1803, the independent MPs Sir William Dolben and Sir William Geary reasoned that talk of the society promoting monopoly was misguided, because the public already suffered from ‘combinations between the fishermen,
and their agents at Billingsgate. In 1806, the Globe Insurance Bill was supported in the Commons in the name of promoting competition. In 1810, the promoter of the Marine Insurance Bill argued that the company would not become a monopoly because 'the increased commerce of this country would afford business enough for all'. Indeed, the Bill aimed to repeal the sections of the Bubble Act which gave a monopoly to two companies, the Royal Exchange Assurance and the London Assurance.

The argument was not that companies should be permitted in all sectors of the economy, but that they could encourage competition in trades currently monopolised by a handful of private traders or companies. Advocates of particular companies were anxious to make a distinction between responsible and irresponsible joint stock activity. 'Philopatris' admitted, 'It is not surprising to me, that good Public Institutions should be calumniated, when there are really so many foolish schemes, which greatly excite the displeasure of the Country'. These 'foolish schemes' included tailoring, coal, wine, and milk companies which 'intrude on businesses, in which there is actually a sufficient competition, and are most obviously illegal'. They were illegal because they would not promote competition: sufficient competition already existed in these trades. Day followed a very similar line. He emphasised that he did not claim that 'the present spirit of speculation might not have been in some instances carried too far', and that he did not support 'visionary speculations' or companies formed for the purpose of adulteration, price-fixing, or monopoly. But, argued Eden, the emergence of responsible joint stock schemes was the result of progress, and attachment to individual enterprise should not be allowed to block progress: 'Personal Responsibility, in trade, is well adapted to a state of society in which traffick can be carried on by individuals or partnerships composed of a few individuals. But in the extended operations of mercantile adventure, which are the natural consequence of national improvement, new modes of forming contracts become necessary.'

Legitimate companies were to be tolerated because they encouraged investment by allowing people even of modest capital to become involved in trade. This did not pose a danger to the public: on the contrary, joint stock funds offered greater security to creditors than the 'personal Responsibility Fund'. This latter fund, though unlimited, was also unknown and uncertain, whereas the joint stock fund, though sometimes limited, was publicly known and was certain to exist. The greater the capital invested in companies the

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23 PD, first series, 1 (27 Mar. 1803), c. 1052.
24 Ibid., 7 (24 Jun. 1806), c. 812.
26 Anon. ['Philopatris'], Observations, pp. 36-7.
27 Ibid., p. 38.
28 Day, Defence, pp. 4-7.
29 Eden, Policy, p. 9.
30 Ibid., pp. 7-9.
better: ‘By enabling individuals to render small capitals productive, these establishments promote the increase of national wealth’.31 Company spokesmen were unabashed in presenting their interests as identical with the national interest. Such was the amount of property invested in companies that the interests of companies and of the nation as a whole could not be separated. Litigation threw this property into jeopardy, and therefore threatened the public interest. ‘To disturb the repose or prosperity of these valuable Undertakings, would convulse the Nation to its centre, and be fully as alarming as a national bankruptcy.’32 So much capital was wrapped up in companies that it would be unthinkable for the state to challenge their legitimacy.

In this period, however, the supporters of joint stock companies adopted defensive positions, seeking not the repeal of the Bubble Act, merely arguing that responsible and useful companies were not prohibited by it. Day issued a second pamphlet, a line-by-line dissection of the Act which attempted to prove that the aim of the Act, which he termed ‘a great monument of national morality’, was ‘to substitute legal commercial speculation founded in judgment, and conducted in industry and honour, for extravagant projects or undertakings, hatched in fraud, nursed in credulity, and terminating in ruin.’33 ‘Philopatris’ stressed that his company sought no special favours from the state:

We have of late had it reiterated in our ears, “You (the Golden-Lane Brewery) are no Chartered Company!” Certainly not! Neither do we wish to be such: nor have we ever pretended to be such. Chartered Companies have all peculiar privileges; but we desire...not one privilege more than the most ordinary tradesman.34

Companies were bullish about their prospects of overcoming any difficulties posed by partnership law: ‘in large pecuniary speculations, it is frequently deemed expedient to apply for acts of incorporation; but it is conceived that the advantages to be derived, may be obtained as well without such acts of incorporation as with them.’35

But the success or otherwise of these attempts was for the courts to decide. It took several months for the case against Ralph Dodd to reach the Court of King’s Bench. Day claimed that the delay had left companies ‘in a state of anxious suspense’.36 Uncertainty was ‘hanging over these companies’ like ‘the sword of Damocles’.37 But the decision, when reached in May 1808, proved more damaging than the delay. Dodd’s defence had employed

31 Day, Defence, p. 72.
32 Anon. [‘Philopatris’], Observations, p. 2.
33 Henry Day, Critical Examination of Such of the Clauses of the Act of 6 of George I as Relates to Unlawful and Unwarrantable Projects Demonstrating That the Present Joint Stock Companies are Neither Within the Letter Nor Spirit of That Act (London: Longman, 1808), p. 6.
35 Day, Defence, p. 31.
36 Ibid., p. 3.
37 Ibid., p. 64.
arguments which had already been rehearsed in print. Transferable shares alone were not sufficient to make a company illegal; instead it was necessary to look at the aims and conduct of the companies. Each company, the defence claimed, was ‘legal in its object and beneficial in its nature’.\textsuperscript{38} The companies only aimed to provide better and cheaper products to the public, in competition with existing traders. Therefore the companies were a public good, and did not come within the letter or the spirit of the law. Chief Justice of King’s Bench, Lord Ellenborough, thoroughly rejected these arguments. He ranked the two companies under consideration alongside the ‘mischievous projects’ currently being promoted.\textsuperscript{39} He had no doubt of ‘the general tendency of schemes of the nature of the project now before us to occasion prejudice to the public’.\textsuperscript{4} These schemes did come under the Bubble Act: they held out ‘a false lure’ to subscribers that their liability would be limited; they proclaimed ‘extravagant hopes of gain’ in order to ‘allure the greedy’, and persons of modest means were drawn in ‘by the facility held out of paying their subscriptions by small instalments’. Furthermore, they both had transferable shares which made it easy for the promoters to evade all financial responsibility for the actions of their companies.\textsuperscript{41} Such companies were dangerous to the public, and Ellenborough noted that ‘One object of the Legislature was to secure simple individuals against the ruinous consequence of such projects, where great hopes are holden out to the public on false foundations’.\textsuperscript{42}

But Ellenborough decided against applying the full rigours of the Bubble Act in this instance. The person who sought an information was not a ‘simple individual’, but someone who had bought shares in the companies specifically to bring this action. There were other common law actions available to this individual, which he could pursue before resorting to the Act. Most importantly, however, the long period since the Act had last been applied afforded the excuse of ignorance to the defendant and others like him. So Ellenborough declined to pursue the case. But in adopting this course, he certainly did not want the public to assume the courts would look favourably on unincorporated companies in the future. He asserted that after this case, no one could call the Bubble Act an obsolete law, and concluded by recommending it

\begin{flushright}
\textsuperscript{38} Rex v. Dodd (1808), 9 East. 517, 103 ER 670.
\textsuperscript{39} Ibid.
\textsuperscript{40} Ibid., p. 674.
\textsuperscript{41} Ibid., p. 673.
\textsuperscript{42} Ibid.
\end{flushright}

as a matter of prudence to the parties concerned, that they should forbear to carry into execution this mischievous project, or any other speculative project of the like nature, founded on joint stock and transferable
shares: and we hope that this intimation will prevent others from engaging in the like mischievous and illegal projects.\textsuperscript{43}

Two more cases over the next few months confirmed this ruling, both declaring the companies involved to be illegal. In the first case the defendant had purchased shares in the British Ale Brewery for the plaintiff, but had overcharged him by £25 in premiums. The plaintiff attempted to recover the money, but was nonsuited as the company was declared by James Mansfield to be illegal and the money therefore unrecoverable.\textsuperscript{44} The second case involved a dispute between subscribers to the Philanthropic Annuity Society as to the choice of secretary. The original secretary was removed from his post, and went to the courts to obtain redress, but Ellenborough ruled that the society was illegal, and that consequently, to deprive an individual of an office in it could not be regarded as an injury. ‘When the prosecutor was secretary to the society, instead of having an interest which the law would protect, he was guilty of a crime...He pretended that there was then a real legal society, to which he was secretary; whereas no such society existed.’ He had therefore been obtaining subscription money under false pretences.\textsuperscript{45}

These three decisions seemed to place companies firmly outside any protection of the law and sent a clear message to company promoters and investors that the courts would not settle their disputes. In later cases from 1810 to 1812, however, Ellenborough seemed to be travelling in a different direction to that suggested by his earlier judgements. In 1810, the Globe Insurance Company sought to enforce a bond issued in 1803 to secure the faithful services of a clerk. The Attorney General argued that despite the fact that the company had secured an act allowing it to sue and be sued by its treasurer, the company was not a corporation, but an ‘anomalous description of body politic’. The result was that

\begin{quote}
the law can only look to the company as individuals, and therefore a contract entered into by them, or by others on their behalf, can only be construed as a contract with so many hundred ’individuals, and must be governed by the same rules of law as if the individual members had contracted in their own names.\textsuperscript{46}
\end{quote}

The implication for this particular case was that the defendant was only obliged to abide by the bond so long as the partners to that contract remained constant. As soon as one member changed, the obligation was annulled. Ellenborough disagreed, arguing that the fact that the contract was made by the trustee of the company and not the partners themselves ‘gets rid of all the difficulty.’ If the contract had been made by a partnership, the successive partners

\textsuperscript{43} Ibid., p. 674.
\textsuperscript{44} Buck v. Buck (1808), 1 Camp. 548, 170 L.R. 1052.
\textsuperscript{45} Rex v. Straton (1809), 1 Camp. 549, 170 ER 1053.
\textsuperscript{46} Metcalf v. Bruin (1810), 12 East. 400, 104 FR 156.
could not sue upon the contract, 'but a trust may be created for such a body which would extend to those who were successively clothed with the right of the original body.'

Ellenborough overruled the Attorney General and found in favour of the company. The decision seemed to give encouragement to unincorporated companies. Similar decisions were reached in 1811 and 1812, in cases involving the Birmingham Flour and Bread Company and the Greenwich Union Building Society. Both times Ellenborough ruled the companies legal.

In the former case, he stated that he did not think the Bubble Act made raising a large capital by small subscriptions illegal, without reference to the nature of the object for which the capital was raised, seemingly a retreat from his earlier decisions. However, in both these cases, Ellenborough drew attention to the restrictions on transfers which were imposed by these companies. The Greenwich Union Building Society was imitating not so much a corporation as a private partnership with its transferable shares, for strict rules were imposed on these transfers: a holder could only transfer his shares on the approval of the purchaser by the society, and by the latter becoming a party to the original articles of the society. Indeed, in a later case, the limits on transferability imposed by these associations were cited as the proof of their legality, in contrast with those companies which allowed unlimited transferability.

The legal position was made clear by Lord Chancellor Eldon in a case involving the National Union Fire Association in 1821:

when a number of persons undertake to insure each other, if the shares and interests in the money that is laid up be not assignable and transferable to any persons who are not members, the society is not illegal; but if there may be assignments and transfers of the shares, I have understood that that made it illegal.

So what seemed like a radical shift in direction for Ellenborough was, when the nature of each company he was asked to pass judgement on is considered, far less radical than appearances suggest. Thus, while the implications of these cases taken as a whole were in some respects vague, four clear points emerged. Firstly, that the Bubble Act was no longer moribund. Its terms could be invoked against unincorporated enterprises which were judged to come under its terms. Secondly, that no endorsement was given to the claims of unincorporated companies to possess limited liability. Thirdly, that unincorporated companies could in some cases sue in the courts in the name of their trustees. Fourthly, that transferability of shares was held to be an attribute of a corporation, but was tolerated in

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47 Ibid., p. 159.
49 Opinion of J. Bayley, *Josephs v. Pebrer* (1825), 3 B. & C. 639, 107 ER 870, p. 872. He pointed in particular to the fact that the object of the Birmingham Flour and Bread Company, to supply its shareholders, the inhabitants of Birmingham, with bread and flour, 'virtually limited the transfer of shares to persons residing in that neighbourhood.' Ibid.
unincorporated companies, provided substantial restrictions were imposed on this transferability. The first two points indicated a genuine hostility to bubble schemes and a desire by the courts to protect the public from them; the last two points indicated that a degree of official recognition had been granted to some unincorporated companies. Significantly, two of the companies looked upon favourably by the courts, the Birmingham Flour and Bread Company and the Globe Insurance Company, were relatively long-established concerns, having traded from 1796 and 1799 respectively. In addition, the Globe has secured an Act in 1807, giving it an additional sheen of respectability. Furthermore, 13 of its directors were at some point also Members of Parliament.51

Harris, while arguing that the earlier judgements of 1808-9 indicated that the courts were ignoring ‘economic developments’ and ‘the changing reality’ of the late eighteenth and early nineteenth centuries, is impressed by the later decisions, regarding them as ‘the first signs of retreat’ from dogmatic and blinkered attitudes to joint stock companies, and an indication of ‘a more positive approach to the legality of unincorporated companies.’52 A more convincing interpretation of the slew of cases in these years is that while the mass of new company promotions was regarded with a sceptical eye, and the unfettered transfer of shares was seen as an unambiguous indicator of illegality, individual companies were able, if they won sufficient political support, secured legitimising Acts of Parliament, imitated partnerships by imposing strict limits on the transferability of their shares, and traded for enough years, to win sufficient respectability and legitimacy to immunise themselves from censure in the courts.

Over the following decade, the number of companies enjoying a degree of respectability was to grow significantly. In his survey of the joint stock economy published once the dust had settled after the crisis of 1825-6, the broker Henry English identified 156 companies which had existed before the promotion boom had begun in 1824. They are listed below, in order of capital advanced.

52 Harris, Industrializing English Law, pp. 238-9.
Fig. 3.4. Companies Established Before 1824 and Existing in 1827

<table>
<thead>
<tr>
<th>Sector</th>
<th>Number of Companies</th>
<th>Nominal capital (£)</th>
<th>Advanced capital (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canals</td>
<td>63</td>
<td>12,202,096</td>
<td>12,202,096</td>
</tr>
<tr>
<td>Insurance</td>
<td>25</td>
<td>20,488,948</td>
<td>6,548,948</td>
</tr>
<tr>
<td>Docks</td>
<td>7</td>
<td>6,164,590</td>
<td>6,164,590</td>
</tr>
<tr>
<td>Water</td>
<td>16</td>
<td>2,973,170</td>
<td>2,973,170</td>
</tr>
<tr>
<td>Bridges</td>
<td>4</td>
<td>2,452,017</td>
<td>1,952,017</td>
</tr>
<tr>
<td>Gas</td>
<td>27</td>
<td>1,630,700</td>
<td>1,215,300</td>
</tr>
<tr>
<td>Roads</td>
<td>7</td>
<td>494,964</td>
<td>479,814</td>
</tr>
<tr>
<td>Misc.</td>
<td>7</td>
<td>1,530,000</td>
<td>1,530,000</td>
</tr>
<tr>
<td>*<em>Total</em></td>
<td>156</td>
<td><strong>47,936,486</strong></td>
<td><strong>34,065,936</strong></td>
</tr>
</tbody>
</table>


As will be seen later, English was quite scathing of many of the promotions of 1824-5, but he had nothing but praise for these 156 companies, which he thought were 'conducive to national benefit and the public good.' To these associations, he argued, 'we are indebted for many of the comforts we enjoy.' These companies, which provided a national communications infrastructure, insurance services, and supplied gas light and water, were responsible for legitimising and popularising the joint stock company in the early nineteenth century. They were performing visible, useful functions, and the capital invested in them made them an important economic power in the land. But they only managed this with the aid and the permission of the state. Some legal historians, following in the tradition of F. W. Maitland, have been bullish about the efficacy of the unincorporated company operating under trust deeds. Maitland claimed that 'in truth and in deed we made corporations without troubling King or Parliament, though perhaps we said we were doing nothing of the kind.' But the great bulk of the companies listed by English were incorporated by Acts of Parliament, which meant their development was controlled by the state. These companies could only be established by persuading the legislature of their public utility. The only sector where unincorporated companies enjoyed any great level of popularity was insurance. But not even insurance companies were operating entirely independently of the state, for most of them secured Acts enabling them to sue and be sued in the name of an officer: between 1807 and 1815, 25 such Acts were passed.

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54 Cited in Cooke, *Corporation, Trust and Company*, p. 86.
55 Harris, *Industrializing English Law*, p. 165, n. 70.
By 1825, despite the development of the joint stock economy, and the growing respectability of some companies, the legal framework regulating joint stock companies remained unchanged. To operate efficiently, companies had to acquire some or all of the attributes of corporations. Trust law permitted companies to imitate these attributes, but only up to a point, and unincorporated companies were in an uncertain legal position. Most companies, even those which did not need compulsory powers of purchase, therefore found it preferable to approach the state for either full or partial incorporation, and these privileges were only distributed to those companies which it was believed would operate in the public interest. From the early 1810s, joint stock companies moved off the public agenda until 1824, when the revival of widespread company formation made them an issue once more.

*Wild and Idle Speculation*

By the early 1820s, the trade depression which followed the Napoleonic Wars was lifting. War taxes were removed; interest rates were falling. Consols were consequently becoming less attractive and *rentier* investors were willing to consider different outlets for their capital. Loans totalling £17.5 million were arranged for the newly-independent South American states, and accompanying them were schemes to exploit the supposed riches of the continent's mines. At the same time, many domestic schemes were launched. According to Henry English, 624 enterprises were promoted in London in 1824 and 1825, with a nominal capital of over £372 million. These figures excluded many provincial companies, and many of those formed in Scotland and Ireland whose shares were not advertised in London. Development in Scotland and Ireland was also significant in these years. Five large joint stock banks were formed, two in Scotland and three in Ireland. In the three years 1823-5, 22 limited partnerships were formed in Ireland under the Act of 1782, with a capital of £129,555. These included Charles Wye Williams' City of Dublin Steam Packet Company, which registered with a capital of £24,000. This was a considerable increase on the previous three-year period, when just half this number of partnerships had registered, with a capital of £24,945. The 16 partnerships formed in the three years following the boom had a capital of

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56 English, *Complete View*. English's figures are probably reliable. He stressed that 'the whole of the particulars given have been obtained from the original prospectuses and other authentic documents...all the calculations may be confidently relied upon, much time and attention having been devoted to the subject.' Ibid., p. 3.

57 Ibid., p. 31.


just £33,100. But it was in England that the most dramatic explosion of activity took place. The range of enterprises promoted in London was remarkable, as Fig. 5 shows.

**Fig. 3.5. Companies Promoted During 1824-5**

<table>
<thead>
<tr>
<th>Sector</th>
<th>Number of Companies</th>
<th>Nominal Capital (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investment</td>
<td>28</td>
<td>52,600,000</td>
</tr>
<tr>
<td>Canal Rail</td>
<td>54</td>
<td>44,051,000</td>
</tr>
<tr>
<td>Mining</td>
<td>74</td>
<td>38,370,000</td>
</tr>
<tr>
<td>Insurance</td>
<td>20</td>
<td>35,820,000</td>
</tr>
<tr>
<td>Building</td>
<td>26</td>
<td>13,781,000</td>
</tr>
<tr>
<td>Gas</td>
<td>29</td>
<td>12,077,000</td>
</tr>
<tr>
<td>Trading</td>
<td>11</td>
<td>10,450,000</td>
</tr>
<tr>
<td>Steam Navigation</td>
<td>67</td>
<td>8,555,500</td>
</tr>
<tr>
<td>Provisions</td>
<td>23</td>
<td>8,360,000</td>
</tr>
<tr>
<td>Misc.</td>
<td>292</td>
<td>148,108,600</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>624</strong></td>
<td><strong>372,173,100</strong></td>
</tr>
</tbody>
</table>

*Source: Henry English, A Complete View of the Joint Stock Companies Formed During the Years 1824 and 1825 (London: Boosey & Sons, 1827), pp. 3-1.*

As can be seen, the four most significant areas of promotion in terms of capital were investment companies, canal and rail companies, mining companies, and insurance companies, and in terms of numbers promoted, mining, steam navigation, and canal and rail companies. But the figures of nominal capital are misleading when determining the actual size of the joint stock economy at this point, for a great many of these schemes existed on paper only. According to English, of the 624, no less than 379 (61 per cent) left no trace of their existence other than their prospectuses or advertisements in the press. Many clearly existed purely to extract subscription money from the public. As a consequence, it should not be surprising that, as in the earlier boom of 1806-9, many of the companies promoted were unincorporated and made no attempt to secure acts or charters. But a significant number did: in March 1824, an early stage in the boom, there were 29 bills for incorporation before the Commons, many more than previous Sessions. This was partly a result of the difficulties already encountered by companies operating under deeds of trust, and partly of the favourable publicity engendered by an application to Parliament.

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60 Royal Commission on the Assimilation of Mercantile Laws in the U.K. and Amendments in the Law of Partnership, as Regards the Question of Limited or Unlimited Responsibility, PP. 1854 (1791) XXVII.445.
61 English admitted that, “In some instances they may have existed, or even do now exist, but certainly are of an unimportant nature” English. Complete View, p. 26.
62 Annual Register (1824), p. 2.
But the numbers of companies approaching Parliament for special privileges worried many, and through the 1824 Session, voices of opposition to the fashion for company promotion were raised. Many doubted whether the sudden flood of promotions reflected genuine popular enthusiasm for companies. For example, it was revealed that the petition in favour of the Manchester Gas-Light Bill, signed by 700 names, contained 108 duplicates. On further investigation, it transpired that an Irish weaver named Corbett had signed 496 of the names. Lord Lauderdale, concerned ‘to provide against mischief which was now going on with respect to Joint-Stock Companies’, successfully secured changes in the standing orders of the Lords so that company bills could not be read a second time unless three quarters of the capital had been deposited. As the session drew to a close, Eldon, who had earlier drawn attention to the evils of speculation in the scrip of a company before it had been incorporated, promised to introduce a bill the following session to compel the register of names of members of companies with the courts, to facilitate both the suing of companies and the recovery of money from all shareholders of companies in such actions, and to negate transfers of liability unless properly registered.

None of these incidents had any significant effect on the glut of promotions. Confidence in the profitability of the schemes being promoted continued to rise through the year and into 1825. Mining shares rose dramatically. United Mexicans, available for £35 on 10 December 1824, were sold for £155 on 11 January 1825. Anglo-Mexicans rose a similar amount over this month, from £33 to £158. Colombians rose from £19 to £82, while shares in the Real del Monte rose from £550 to £1,350. But the situation changed the following month when, just as in 1807, the question of the legal status of unincorporated companies was raised in dramatic fashion. Immediately after the King’s Speech on the opening day of the new session, Eldon rose to announce that, as promised last session, he would move for a bill to check dealing in the shares of companies which had not received the sanction of Parliament or the Crown. A young Benjamin Disraeli, an energetic, though unsuccessful speculator in the foreign mines, recorded the impact of Eldon’s intervention: ‘A great panic took place...everything fell...and for some time it was supposed that the whole Commerce with America might be crushed.’ A second blow was delivered the next day, when Chief
Justice Abbott ruled that the Equitable Loan Bank Company was illegal under the Bubble Act. An earlier trial had ruled against the defendant, who had refused to pay for some shares ordered from the plaintiff, a stockbroker. The defence had used the argument that the company was illegal and therefore all contracts relating to the purchase of shares were void. On that occasion this line of defence had failed, but Abbott ruled differently. The company was acting as a corporate body: it had transferable shares, plus it was not acting in the public interest, as it was lending money at the usurious rate of eight per cent. Abbott used his platform to comment on the broader current of speculation in condemnatory terms:

we cannot help observing that in other companies and associations the sale and transfer of shares at enormous premiums is carried on to a greater extent than was ever known, except at the period when the statute referred to was passed. The necessary effect of such a practice is to introduce gaming and rash speculation to a ruinous extent. In such transactions one cannot gain unless another loses, whereas in fair mercantile transactions each party, in the ordinary course of things, reaps a profit in his turn.  

On 29 March, Eldon made a similar ruling, concerning the Real del Monte mining company. This case was a dispute between a shareholder and the directors: the former was seeking an injunction to prevent the directors from transferring company property to John Taylor, one of their number. Eldon confounded both sides by questioning at the start of the case ‘the right of any persons, claiming as proprietors in such a company, to have the aid of a court of justice.’ By ‘such a company’, Eldon meant an unincorporated one, which nevertheless claimed to enjoy all the attributes of a corporation. The Real del Monte’s deed of settlement claimed for the company all these attributes: indeed, Eldon commented wryly, ‘if the Bank of England, the East India Company, or the South Sea Company, wanted a new charter, they could not do better than copy the deed of regulation of the Real del Monte Company.’ The company was clearly acting as a corporate body without the authority of the Crown or Parliament, and therefore came under the Bubble Act.

While the Chief Justice and the Lord Chancellor reached their decisions on the merits of the cases involved, both clearly intended their judgements to act as a brake on the wave of company promotions they found so disturbing. But these decisions, combined with the threat of Eldon’s bill, did not have this effect. Rather, they precipitated a two-fold response from companies. Their first response was to apply in ever greater numbers for corporate privileges in order to secure their legality. Parliament was swamped. In the session of 1825, 297

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71 Joseph v Pebrer (1825).
72 Kinder v. Taylor (1825), 3 Law Journal Reports 68.
73 Ibid., p. 78.
petitions were made for bills granting such privileges. Their second response was to rush into print to justify themselves, as they had in 1807-8. Similar arguments and strategies were employed. Writers appealed to principles of commercial freedom. Disraeli was occupied through 1825 writing pamphlets urging the companies’ case. He produced three works in quick succession, published by John Murray, who had entered into a speculative partnership with Disraeli. In the first pamphlet, Disraeli complained of the outdated thinking which motivated opponents of speculation, and held that Eldon must not ‘legislate for the present age with the feelings of the preceding one’, nor ‘restrain or prevent the agency’ of these undertakings. In the second, he asked, ‘ought not the wise legislators of a free and commercial people to encourage and to support undertakings which tend to enrich a considerable body of the inhabitants of this country...?’ Alexander Mundell, another advocate of joint stock enterprise, lamented that ‘governments do not keep pace with the knowledge and enterprise of the times.’ He wanted companies to enjoy complete freedom, arguing that to ‘common apprehension it seems difficult to conceive why fifty persons may not associate for any commercial or other purpose as well as five, or five hundred as well as fifty, or five thousand as well as five hundred’. 

Advocates of the mining schemes developed utility arguments, just as the earlier pamphleteers had done, revolving around the perceived national benefits to be obtained by the expansion of commerce with Latin America. Sir William Rawson, Oculist-Extraordinary to the Prince Regent and, like Disraeli, a keen speculator, argued that restoring the mining industry of the Americas, as well as proving very profitable to shareholders, would stimulate trade, ensuring a ‘mart for our manufactures, which may thus be increased to an almost

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75 He had been encouraged to do so by his friend J. D. Powles, promoter of several mining companies. Note that the third of Disraeli’s pamphlets, The Present State of Mexico, featured only a short introduction by Disraeli: the bulk of the text was written by Lucas Alaman.
76 Disraeli and Murray were heavily involved in the mining shares. The shares Disraeli purchased were kept in an iron case in Disraeli’s room. Profits from them were to be split two-thirds for Murray and one-third for Disraeli. Disraeli to Murray, 1 Apr. 1825, in Disraeli, Letters, pp. 25-6. For accounts of Disraeli’s speculations, see Jane Ridley, The Young Disraeli (London: Sinclair-Stevenson, 1995), pp. 31-4. Robert Blake, Disraeli (London: Eyre & Spottiswoode, 1966), pp. 23-6. William Flavelle Mouppeny, The Life of Benjamin Disraeli [1910], 2 vols (London: John Murray, 1929), i. pp. 58-64.
77 [Benjamin Disraeli], An Inquiry into the Plans, Progress, and Policy of the American Mining Companies, third edition (London: John Murray, 1825), pp. 130-1. This pamphlet was a major success, running into three editions, and was reviewed in the Gentleman’s Magazine.
78 [Benjamin Disraeli], Lawyers and Legislators or Votes on the American Mining Companies (London: John Murray, 1825), p. 6.
80 Mundell, p. 145. This was not Mundell’s first foray into print to justify joint stock enterprise: two years earlier in an article published in the Edinburgh Review, and subsequently republished as a pamphlet, he had argued that joint stock companies ‘may be safely left to form themselves for any purpose whatever requiring them’. The Principles Which Govern the Value of Paper Currency. With Reference to Banking Establishments (Edinburgh: Waugh and Innes, 1823), p. 18.
Enlarged trade with the New World would boost the Public Revenue, and would mean commercial independence from mainland Europe. Britain's enemies would not be able in the future to weaken Britain by combining against her exports, making the nation 'free and independent of Continental politics, Continental dictation, or Continental interference of any kind.' Furthermore, by civilizing the new states, Britain would be establishing 'a salutary balance of power, between them and the United States', making British influence paramount in disputes between the two factions, a situation which would also hold in European politics. Britain would become 'the Arbitress of Nations, — holding the Balance of Power in both Hemispheres in her own hands.'

Joint stock mining companies were the means by which all these national aims would be achieved. The practical advantage of the companies, it was argued, should overcome any narrow legal objections to the company form. This form was necessary for mining on a large scale to be carried out. John Taylor, Chairman of the Real del Monte, argued that it was 'impossible for mining to be carried to great extent without a division of the risk and a contribution of capital from a competent number of subscribers.' But, just as during the previous boom, this utility argument precluded the blind endorsement of all companies. Proponents of the foreign mines tended to condemn domestic projects, which they thought were unnecessary:

Joint Stock companies are beneficial, where a larger capital, and more extensive credit are required, than individuals can furnish. They are useful also in opening new channels for commerce of too great magnitude, and where the risk is too much, for individuals to undertake...But they are decidedly prejudicial, when directed to objects fairly within the reach of the industry and capital of individuals.

Disraeli was also sceptical about domestic companies. This scepticism even stretched to those domestic projects, like canals and docks, which required large capitals. Companies for 'home improvement' did not make sense as the country was already fully developed: they were 'formed to develope [sic] the resources of one of the smallest, most thickly populated, and most civilized countries in Christendom. The truth is, that in England, there are no new resources to develope [sic]'.. They would create an unnatural demand for labour during

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82 Ibid., p. 62.
83 Ibid., p. 63.
84 Ibid., p. 63.
85 Rawson, Present Operations, pp. 64-5.
construction, and when completed, by competing with existing services, would ‘injure existing property’, eventually ruining both parties.87 ‘Better by far would it be’, wrote one Malthusian commentator, ‘that we should throw our accumulating riches into the sea, than employ them in creating an unnatural and improvident demand for labour; thus adding a fresh stimulus to a population already too rapidly increasing’.88

Supporters of domestic improvements, on the other hand, thought that speculators in foreign schemes were indeed throwing their riches in the sea, condemning the projects as utterly fraudulent and worthless. John Barrow, writing in the Quarterly Review, looked favourably on all ‘home projects of an innocent character’ on the grounds that they provided employment to the poor, even if they ultimately turned out to be unprofitable.89 He stated that he would support any domestic project over these foreign schemes as he was ‘convinced that, as a national benefit, it would be preferable that the surplus wealth of the country should be expended at home, upon the most unpromising and unprofitable projects that the perverted ingenuity of man can devise, than be sunk in loans and speculations, which benefit only needy foreigners and domestic sharpers, at the expense of British folly and British capital’.90 While it was reported that the Duke of Wellington was unsympathetic to the ‘speculating mania’ and thought that ‘the companies are bubbles invented for stockjobbing purposes’, he was ‘not averse to those which are formed for improvements in our own Island’.91 Supporters of domestic companies tried to allay popular fears that these companies would become huge monstrosities forcing private traders out of business by arguing that companies faced intrinsic restrictions on size, with Mundell holding, for instance, that ‘The division of profit will always prevent more persons from associating together than will be necessary to raise the capital required’.92

Partial though many writers’ recommendation of the joint stock principle was, most insisted that the flaws of some types of joint stock enterprise must not be used to condemn the whole, and few of them endorsed legislative or judicial action against unsound companies.93 Rawson admitted that it might be thought desirable to legislate to prevent the establishment of fraudulent companies, but it would be both impracticable and inconsistent for the legislature ‘to create new shackles’ when it was repealing so many of the long-established restrictions on trade. In any case, the public ‘possess so much intelligence and

87 Ibid., pp. 26-7.
90 Ibid., p. 355.
92 Mundell, Influence, p. 146.
93 Day had similarly argued in 1808 that there was no need for the state to suppress companies founded on imperfect principles, for these carried ‘within themselves the seeds of their certain destruction.’ Day, Defence, p. 6.
sound sense, that the evil will be sure to cure itself, by the speedy detection of fraud orallacy'. Disraeli claimed that improvident speculation was either the result of folly or fraud. Fraud was already covered by the common law (‘what law in Christendom traces the ramifications of fraud with keener spirit than the common law of England?’), while ‘the folly of man is temporary as it is destructive’ and it would be wrong for the government to ‘commit the great blunder of despotic states, and legislate for the individual’.

So, ill-conceived, even fraudulent, schemes were not to be interfered with. Such an outlook implied antagonism to the Bubble Act as an unnecessary measure. Indeed, whereas justifications of joint stock enterprise in 1806-8 had been defensive, and had sought to show that particular companies were legal under the Bubble Act, now company propagandists went on the offensive, condemning the Act as a restrictive and unfair piece of legislation which ought to be repealed. Pamphleteers deprecated the uncertainty hanging over joint stock enterprise caused by Eldon’s revival of the act. Disraeli wrote, ‘The grand characteristic of the laws of despotic states is the uncertainty of the crime, and the severity of the punishment.’ He condemned the statute ‘smuggled through the Houses by the promoters and projectors of the South Sea scheme itself...a statute which suits rather the meridian of Cairo and Constantinople’. Rawson called for ‘the abolishment of the penal enactments contained in the Bubble Act’.

But to convince the government and the public that joint stock property deserved the protection of the law, company supporters had to overcome traditional scorn of ‘stock-jobbing’ and ingrained fears of excessive speculation. They did this by carefully distinguishing between the current schemes and those of 1720: whereas the older speculations had grown out of the poverty of the early eighteenth century, and were intended to create ‘business for those who, if there had been any real capital to support the schemes...would themselves have been naturally employed’, the speculations of the 1820s were the natural result of the wealth of the times and the abundance of capital seeking legitimate investment opportunities. As international relations developed, the argument went, there emerged more opportunities for the employment of capital, allowing investors to become more selective, and making it impossible for the promoters of wild schemes to attract any capital at all. Therefore, the system had a tendency to become increasingly stable. The speculation of 1720 was ‘one to which impoverished and ill-governed states must always be liable.’ But in

94 Rawson, Present Operations, p. 67.
95 Disraeli, Plans, Progress, and Policy, pp. 95-6.
96 Ibid.
97 Disraeli, Lawyers and Legislators, pp. 92-3.
98 Ibid., pp. 89, 94.
99 Rawson, Present Operations, p. 66.
100 Disraeli, Plans, Progress, and Policy, p. 127.
101 Ibid., pp. 127-8.
1825 the public possessed ‘too much knowledge to become the victims of a South Sea scheme.’¹⁰²

Company propagandists stressed the respectability and stability of their associations by citing the responsibility and honesty of specific boards of management. One way of achieving this was to present companies as nothing more than large partnerships. The Real del Monte mining company was divided into only 500 shares and had but 120 proprietors ‘every one of whom we believe are original proprietors’.¹⁰³ The Anglo-Mexican and United Mexican had 10,000 and 6,000 shares respectively, but for upwards of eight months these shares were at par or at a discount: evidence, it was held, that the managing directors were not involved merely for a quick profit.¹⁰⁴ John Taylor aspired to respectability, arguing for stable and sustainable investment rather than boom and bust speculation. It was essential that too much capital was not invested in mining schemes: the number of able managers and experienced workmen was finite, so capital should be limited ‘to the amount of which the application can be effectively and judiciously directed...I am desirous of seeing the experiment conducted upon that respectable scale which may lead to a worthy and profitable result.’¹⁰⁵ Wild fluctuations in share prices were portrayed not as the result of the machinations of self-interested projectors and brokers but of public greed or ignorance. The true value of mining shares was determined by the quality of the mines and the progress made with the mining. The public was guilty of wading in and ignoring these factors, pushing share prices to artificial heights, and when prices inevitably fell to their natural level, the public blamed the companies rather than their own rash behaviour.¹⁰⁶ Disraeli asserted that the share fluctuations which the legislature so deprecated were actually caused by the conflicting signals and opinions emanating from the legislature.¹⁰⁷

But despite their best efforts, company propagandists still ran up against traditional suspicion of, and hostility to, joint stock companies and excessive speculation. The narrative of the South Sea Bubble, and its attendant imagery, which had been invoked during the last speculative boom, was revived again. Writers sought to remind the public of the disasters which ‘shook the kingdom to its centre’ in 1720.¹⁰⁸ Unsuspecting people were advised against adventuring their property in the ‘wild Speculations’ which were ‘continually arising

¹³ Ibid., p. 45.
¹⁰⁴ Ibid., p. 47.
from the fertile and iniquitous brains of visionary schemers. 1° In his *Weekly Register*, William Cobbett regularly denounced ‘those mischievous and disgraceful combinations, called Joint Stock Companies.’ 1° They encouraged gambling and made honest labour seem unattractive.

Men, and particularly young men, generally dislike a slow operation in getting rich, especially as it must be accompanied with labour, or restraint, or both. How, then, are we to expect them to remain quietly at their trade or profession, when they see, almost every day in the week, a RICARDO leap at once from an orange-basket or pencil-box to a park and mansion and half a million of money, merely by “watching the turn of the market” 2°

Individual companies were frequently denounced as bubbles in Parliament. 1° Eyebrows were raised at the involvement of society’s elite in joint stock speculations, which many found disturbingly redolent of 1720. *The Times* had been unconcerned in the early days of the speculative boom, when those involved were ‘Jew-jobbers and traders’, but now feared for ‘the moral character of the people of England, when we see our noblemen...our country gentlemen...and our merchants, which was but another term for integrity and honourable dealing, sharing the general contagion, and even proud of showing their plague-spots, as if they were badges of distinction.’ 1°, 1° Rawson had argued that the mining companies were ‘both patriotic and praiseworthy’, 1°, 1° but *The Times* was convinced that ‘if England becomes a nation of jobbers and speculators, there is an end of all patriotism’, because ‘our commercial greatness, and our national power’ 1° would perish. 1° That many of the middle and upper classes participated was undoubted. Harriet Arbuthnot, wife of the rising Tory politician Charles, recorded her investments in her journal:

There is a railway going to be made between Liverpool & Manchester which promises to answer immensely. We have 10 shares in it for which we gave £3 a piece & which are now worth 58£ each, and they are expected soon to be worth above 100£. I am very fond of these speculations & should gamble greatly in them if I could, but Mr. Arbuthnot does not like them & will not allow me to have any of the American ones as their value depends upon political events. & he thinks in his official situation it would be improper.

But backbench MPs saw no conflict of interest. The Conservative weekly *John Bull*, eager to show ‘the extraordinary infatuation of gentlemen having brains in their heads’, published the

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11°° Ibid., pp. 419-20.
11° See for example PD. second series, 11 (2 Apr. 1824), c. 99, ibid., 12 (16 Mar. 1825), c. 1049.
11°° The *Times*, 5 Nov. 1825, p. 2.
11°° The *Times*, 5 Nov. 1825, p. 2.
names of 129 people who were directors of more than three companies, 31 of whom were MPs.  

These developments were greeted with dismay by many, demonstrated by a series of prints from 1824 and 1825. One such print, 'Bubbles for 1825 – Or – Fortunes Made by Steam', published in December 1824, is not a celebration of the economic potential of steam power; rather it is a tribute to the power of hot air.

**Fig. 3.6. Bubbles for 1825 – Or – Fortunes Made by Steam**

The illustration shows a trio of company promoters on a platform blowing bubbles which represent the wide variety of companies and loans being promoted at this time. There are companies for insurance, gas, bread, steam-washing, pearl-fishing, and other objects. Two of the bubbles are cracked and deflating, but this does not dampen the enthusiasm of the investing public, who vie with one another for the attention of the promoters and are desperate to give their money in return for shares in the bubbles being blown. The investors are mostly well-dressed and are handing over large sums, but on the right a fish-wife barges into the frame asking for 'Twenty Shilling worth', indicating the wide reach of the speculative mania. It is clear that the only winners from this situation will be the promoters,

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who are filling sacks with the public’s money. The victims of the scene, the investing public, quite clearly need to be protected from the consequences of their greed and stupidity.\textsuperscript{118}

Such protection is offered in this next print, published in February 1825.

\textbf{Fig. 3.7. The Bubble Burst – Or the Ghost of an Old Act of Parliament}

The protection is provided by Chief Justice Abbott, who is depicted pricking the speculative bubble blown by the public with his judgement of February 1825 against the Equitable Loan Bank. The illustration is interesting for its wealth of anti-speculation imagery. The bubble-blower on the far left stands on a mushroom marked ‘Projectors’ Schemes’, likening these enterprises to a fungus, and suggesting that they are by their nature likely to get out of control. The instability of the bubble, labelled ‘Speculation 1825’, is underlined by the flames and puffs of smoke issuing from it. The flames are marked with the names of some of the most dubious of the schemes of the day; clearly, these will prove dangerous to anyone who gets too close to them. Indeed, the despairing speculators who have dabbled in these schemes are depicted outside the Stock Exchange sinking into quicksand; one holds pistols to his head and wails ‘Despair Despair’. Behind them can be seen two boys flying kites, yet another metaphor for speculative activity. In contrast with the chaotic and deranged scene on the left of the picture, Abbott stands solid and calm in wig and gown, dwarfing the speculators, and

\textsuperscript{118} Ibid., pp. 428-9.
dealing what the illustrator hopes will be the fatal blow to the popular madness with his right hand, while brandishing the Bubble Act with his left. The verse at the foot of the print confirms Abbott as the hero of the piece, guarding the public against the schemes of the promoters, and indeed protecting the public from itself.¹¹⁹

Yet while bubbles were roundly condemned, the Bubble Act itself was losing its supporters, and was seen by increasingly few as the nation’s best defence against fraudulent promotions. *The Times*, despite opposing ‘those transactions in the city which are founded in fraud or imbecility’,¹²⁰ thought the Bubble Act unenforceable.¹²¹ It held that frauds in company promotion could be adequately prosecuted as misdemeanours under common law.¹²² Eldon came to think so too. In *Kinder v. Taylor*, he stated the opinion that unincorporated companies would be found illegal at common law regardless of the interpretation placed on the Act, and he later argued in the Lords that the Act was not of great significance, as ‘there was hardly any thing in that act which was not punishable by the common law.’¹²³ He never introduced the bill he had promised at the start of 1825, coming instead to believe that companies could be better regulated through the courts.

Nor did the Bubble Act receive support from a growing group who looked to government to establish a regulatory code to make fraud more difficult. For John George, a barrister, ‘some statutory enactments of a regulatory character’ needed to be applied to all companies in order to discourage fraudulent enterprise. George set out in some detail such a legal framework: his proposals included punishments for false statements in prospectuses, the drawing up of rules concerning the use of names in company advertisements, obligatory directorial shareholdings, and the prohibition of the sale of shares at a premium before the company had commenced its business.²⁴ He was confident that such a system would contribute greatly towards ‘checking delusion, fraud, gambling, and the obtaining of other people’s money’.²⁵ Another anonymous writer set out a plan for the deeds of all partnerships of more than six members to be registered at the Court of Chancery, with the names and shareholdings of all members attached. Transfers of shares would be registered in the same way, and companies would have the power to sue and be sued.¹²⁶ Such laws would put a stop to ‘disgraceful scene[s] of gambling, delusion, and credulity’, and prevent companies ‘being made mere engines, in the hands of a few individuals, to enrich themselves at the expense of

¹ Ibid., pp. 467-8.
² *The Times*, 4 Feb. 1825, p. 4.
³ Ibid., 5 Feb. 1825, p. 3.
⁴ Ibid., 8 Feb. 1825, p. 2.
⁵ PD, second series, 13 (24 Jun. 1825), c. 1350.
⁷ Ibid., p. 72.
the community." Without a legal code circumscribing the powers of directors and protecting the rights of shareholders, it was believed that the investing public, and indeed anyone who dealt with companies, would always be vulnerable to the acts of fraudsters. One writer claimed that until the property invested in companies obtained sufficient protection, 'the Courts of Directors will be tribunals possessed of unlimited and gigantic powers, and from whose decision there will be no appeal'. Whether trusting to the common law, or looking to legislative innovations, most commentators thought the Bubble Act unsuitable machinery for regulating joint stock enterprise in the climate of the 1820s.

Thus, by 1825 the Bubble Act had run out of supporters: advocates of joint stock enterprise opposed the Act as an obstacle to their activities, while those sceptical of the benefits of company promotion on a large scale no longer saw the Act as a guarantee of their interests. This situation explains the sudden repeal of the Act in 1825. But most were looking for more than mere repeal. Many of those who saw companies being used as vehicles for fraud wanted new laws to curb crooked promoters, while most of those engaged in promoting companies were seeking new laws to be passed granting protection to companies from the rigours of partnership law. The latter group saw that more than repeal would be required to give these companies a secure legal status. Disraeli was prompted by Eldon's threatened bill to state, 'That a bill should be introduced on the subject of Joint Stock Companies there can be no doubt; but it should be one not to regulate their management, but to sanction their existence to make them amenable to the law, of which, under the present system, they are forced to be independent.' Hudson Gurney, a Whig banker, supported the repeal of the Bubble Act, but held that it was 'impossible that the common law, originating in another state of society, could meet all the exigencies of the present commercial situation of the country'. As a result, he called for 'one general law for the formation and regulation of all joint stock companies'. He supported the continental system of limited liability on registration, stressing the benefits which would ensue to the public from registration: they would be better able to judge the promoters of new speculations, and would therefore be less likely to be defrauded. Rawson performed the same trick of urging the creation of new laws for the convenience of companies, in the name of the public interest:

the Legislature is called upon, by every consideration, to afford its countenance and support to these Companies, and to place them upon a footing of legal security, which, while it exempts the capitalist from the

127 Ibid. p. 100.
129 Some company supporters also saw that measures to protect shareholders would increase the respectability of their companies.
130 Disraeli, Lawyers and Legislators, p. 95.
131 PD, second series. 12 (29 Mar. 1825), cc. 1283-4.
penal consequences of barbarous and obsolete enactments, and from liabilities beyond the sums he engages to furnish, shall also protect the public against the fraudulent designs of selfish and interested adventurers.\footnote{Rawson, \textit{Present Operations}, p. 78.}

His dissatisfaction with the current law stemmed partly from the opportunities it afforded dishonest projectors to fleece the public, but mainly from the inadequate protection it afforded the property invested in joint stock companies. The insecurity of this property was only partly due to the Bubble Act and the uncertainty over the legality of unincorporated joint stock enterprise: it was also due to the exposure of these companies in their day to day existence to the law of partnership.

Peter Moore, an MP involved in several company promotions, introduced a Bill in April 1825 to repeal the Bubble Act. The Bill stated the public benefits that had resulted from the wave of new companies, but declared that the effect of certain vague clauses in the Bubble Act had been ‘to prevent and restrain’ many people from investing in these companies ‘in case they be subjected to its penalties’.\footnote{\textit{A Bill to Alter and Amend an Act Passed in the 6th Year of the Reign of King George the First...and for the Prevention of Frauds in the Establishment of Joint Stock Companies}, PP. 1825 (253)1.139, p. 5.} The Bill declared that it was therefore ‘expedient to repeal such clauses, and to enact other provisions, in lieu thereof’.\footnote{Ibid., p. 3.} These ‘other provisions’ sought to set out rules governing the formation of all companies, to protect shareholders both from the uncertainty of the law in general and from dishonest or fraudulent promoters in particular. To this end, the Bill outlined the legal responsibility of promoters to the investors in the company until the deed of settlement had been executed by all the investors. From this point, responsibility shifted onto those parties appointed by the deed to manage the affairs of the concern. The company would be dissolved if the deed was not executed within a fixed length of time, and in this case, investors would be entitled to recover all sums entrusted to the promoters. Penalties for non-return of these monies would be enforced by local magistrates or justices of the peace.\footnote{Ibid., pp. 6-9.}

The Bill passed its first reading but did not receive a second; instead, on 2 June, the Attorney General, John Copley, introduced a Government Bill of repeal. This passed both houses with no opposition, and received Royal Assent on 5 July.\footnote{6 Geo. IV, c. 91.} It looked like the Government had caved in to the pressure placed on it by company supporters. This pressure had been substantial: a committee of all the Members of Parliament with mining interests had been formed, and sent deputations to ministers urging against a hard line on companies.\footnote{Draft letter, Disraeli to Robert Messer [?], Apr. [? ] 1825, Disraeli, \textit{Letters}, p. 27.} But this was only part of the story. The Government measure did indeed repeal the relevant sections of the Bubble Act, but it did not include any of the legal innovations proposed in
Moore’s Bill. Copley had considered introducing provisions to replace the repealed statute, but ‘after having very attentively considered the subject, he had been convinced that to do so would be at once difficult, unwise, and impolitic.’ He believed that as no legal enactments regulating joint stock companies had existed before 1720, no regulatory law was now required. By removing the artificial interference of the statute of 1720, companies would return to regulation by the common law.

So, while repeal of the Bubble Act is often thought of as the first step on the road to an ‘enlightened’ company law, the Government had not, in fact, done as much to advance the interests of either promoters of, or shareholders in, joint stock companies, as may first seem. In fact, the measure was as much a reform of the state as a reform of commercial law. The origins of the Act, passed in the interests of the South Sea Company, and confirming the monopoly of the two chartered marine insurance companies, were distasteful to a Tory Government pursuing retrenchment and attempting to lift itself above sectional interests. The Act’s repeal can best be situated in the context of the passage in 1824 of the Act of incorporation of the Alliance Insurance Company, ending the monopoly of marine insurance enjoyed by the Royal Exchange and London Assurance Companies since 1720, and the 1826 Act permitting the establishment of joint stock banks outside London, thus ending the Bank of England’s monopoly. The state was renouncing its former relationships with these special interests, but by repealing the Bubble Act, it was not introducing a new system of commercial regulation.

The repealing Act contained only one innovatory aspect. The Government signalled its intention to make some of the privileges of incorporation more easily available in a section tacked on to the end of the Act, which permitted the Board of Trade to advise the Crown to grant charters of incorporation with unlimited liability. The Board had been reluctant to recommend the grant of charters with limited liability to companies which had not already received parliamentary sanction. The Act was intended to enable companies to approach the Crown direct for privileges, and to increase the chances that such approaches would be successful. The Government’s choice of the Crown over Parliament as the favoured dispenser of privileges was significant for two reasons. Firstly, it suggested that incorporation by the Crown was seen as a less corrupt means of granting privileges than Parliament, a theme which will be explored later in this chapter. Secondly, it indicated that the government did not want to give too great an encouragement to incorporation. The Government was sceptical about parliamentary incorporation. Huskisson opposed the grant of limited liability except by royal charter, while Eldon complained that it was far too easy for promoters to get bills

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138 PD, second series, 13 (2 Jun. 1825), c. 1019.
139 PD, second series, 10 (10 May 1824), c. 609; 12 (28 Feb. 1825), c. 719.
slipped through the Commons, suggesting that the Commons was not doing its job of protecting the public.\textsuperscript{140} Surveillance and control were of great importance to the Government. Copley told the House that 'the Crown should have the power of exercising its discretion as to granting charters, and of modifying such charters according to the nature of the respective cases.'\textsuperscript{141} The message was clear: exemptions from partnership law would not be granted indiscriminately, but would have to be sought by approaching either Parliament, or preferably the Crown, and would be decided on a case by case basis.

**The Panic and its Aftermath**

The boom had already showed signs of slowing in June, before the Bubble Act was repealed. Prices stopped rising, confidence was knocked, and with the enormous over-extension of credit came difficulties in paying calls on shares. Country banks, 80 in all, began to close their doors, and the year culminated in a run on the Bank of England. Monthly bankruptcies, which in the summer had averaged 64, rose in November to 142, and in December to 224.\textsuperscript{142} In the panic, share prices collapsed, and with them, the companies themselves. Of the 624 promotions recorded by Henry English, only 127 were still in existence by 1827, and the shares of most of these were at a large discount. Only a small portion of the capital had been paid up, and large overhanging liability remained on the shares:

**Fig. 3.8. Companies Formed During 1824-5 and Still Existing in 1827**

<table>
<thead>
<tr>
<th>Sector</th>
<th>Number</th>
<th>Nominal Capital (£)</th>
<th>Amount Paid (£)</th>
<th>Present Value (£)</th>
<th>Amount Liable to be Called (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insurance</td>
<td>14</td>
<td>£28,120,000</td>
<td>£2,247,000</td>
<td>£1,606,000</td>
<td>£25,873,000</td>
</tr>
<tr>
<td>Mining</td>
<td>44</td>
<td>£26,776,000</td>
<td>£5,455,100</td>
<td>£2,927,350</td>
<td>£21,320,900</td>
</tr>
<tr>
<td>Gas</td>
<td>20</td>
<td>£9,061,000</td>
<td>£2,162,000</td>
<td>£1,504,625</td>
<td>£6,899,000</td>
</tr>
<tr>
<td>Misc.</td>
<td>49</td>
<td>£38,824,600</td>
<td>£5,321,850</td>
<td>£3,265,975</td>
<td>£33,502,750</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>127</td>
<td>£102,781,600</td>
<td>£15,185,950</td>
<td>£9,303,950</td>
<td>£87,595,650</td>
</tr>
</tbody>
</table>


\textsuperscript{140} PD, second series, 10 (21 May 1824), c. 791.
\textsuperscript{141} PD, 13 (2 Jun. 1825), c. 1020.
\textsuperscript{142} *Annual Register* (1825), p. 333.
The panic of 1825 led to the legalisation in England (outside London) of joint stock banks. The perceived flaws of the country banks were contrasted unfavourably with the stability of Scottish joint stock banks which had weathered the storm far more convincingly. They were given a privileged legal position in comparison to other joint stock companies, being placed inside a detailed regulatory framework based on registration, upon which they received corporate privileges, excluding limited liability. It was believed that these new banks would be based on a wider, and therefore more secure, stock of money. Certainly, joint stock enterprise was seen as worthy of promotion in the field of banking, but there was no more general legitimisation of joint stock enterprise. The panic of 1825 left a profound mark on the national psyche. It was to form the raw material for novelists for the next thirty years, even after the railway mania of the 1840s provided them with a more recent example of collective madness. More immediately, those who were closely associated with the promotions of 1824-5, suffered damaged reputations. Of the 31 MPs who held three or more directorships, 15 were either defeated or did not stand in the elections of 1826. Ten of these never made it back into Parliament. In February 1826, the Radical MP John Cam Hobhouse asked the government what was the fate of Eldon’s promised bill, and whether the government had any intention of introducing a similar bill in the coming session in order to provide the public ‘security for the future.’ He claimed that there was ‘a very uneasy sensation on the subject of the fraudulent transactions of the last year, and fears were entertained that similar attempts might again be made.’ The Attorney General replied that no such measure was planned, for the law as it then stood ‘was sufficient to reach any fraudulent attempts, by any number of persons forming themselves into illegal companies.’ Furthermore, the government resisted moves for an investigation of the frauds and failures of 1824-5. A motion in December 1826 for a Select Committee to inquire into the ‘origin, management, and present state’ of these companies was confined on the insistence of government ministers to an inquiry into just one of the companies, the Arigna Iron and Coal Mining Company. During the debate, ministers defended joint stock companies in general from their more vociferous critics, with Canning stating that ‘Many persons of the most unimpeachable characters had embarked in speculations...for the most irreproachable ends.’ But the legacy of 1825 was negative rather than positive as regards the esteem in which joint stock companies were held by the public. And there was no more general re-evaluation of the joint stock economy. The

144 Ibid.
146 PD, second series, 16 (5 Dec. 1826). c. 256.
government did not contemplate any revision in the system by which companies which desired exemptions from partnership law had to obtain them from the state.

Committee-Room Corruption

The 1825 boom had reaffirmed the link in the public mind between companies and corruption. One key aspect of this corruption stemmed from the relationship between companies and politics. There was enormous potential for corruption in the procedure by which private Acts of Parliament were sought. Promoters of joint stock schemes were quite willing to bribe MPs in order to secure a favourable hearing for their companies. The temptations held out to MPs to become the agents of outside economic interests was huge. Radicals were prominent in highlighting the corruption that existed. In May 1824, Joseph Hume moved a standing order that no Member with an interest in a private bill should be permitted to sit on the committee deciding on the bill. He told the House that he ‘had been strongly impressed with the impropriety of the existing practice, not merely during the present session, but for many sessions...The business in committees above stairs was no longer a question of justice between the parties; it was one merely of canvas and influence.’ He stressed that he was not dealing with a few isolated cases, claiming that ‘every projector of a new company’ found it ‘absolutely necessary to have among his subscribers a certain number of members of parliament; without whose aid he could entertain little or no hope of getting his bill passed.’ Alexander Robertson agreed, stating that ‘it was well known, that in most of the speculations now afloat in the city, some thousand shares were reserved for the use of members of parliament’. Hume thought that the same rule ought to apply to committees as applied to juries, ‘namely, that no man should be a judge in his own case.’ He managed to secure the appointment of a Select Committee to consider the question. The committee fought shy of declaring an opinion on the key issue of interested voting, but Hume continued to press for the reform of private bill procedure.

He was far from alone in raising qualms about current practice. Calvert objected that ‘Persons holding shares to the amount of 50,000l.’ had voted for the St Catherine’s Docks Bill. Baring contended that ‘Every man must be shocked at the manner in which private

147 Ibid., 11 (27 May 1824), cc. 910-11.
148 Ibid., c. 913.
149 Ibid., 12 (10 Mar. 1825), c. 986.
150 Ibid., 11 (27 May 1824), c. 913.
151 Select Committee on Private Business of the House, PP, 1824 (432) VI.497.
152 Ibid., p. 5.
153 PD, second series, 12 (22 Feb. 1825), c. 612.
business was conducted in that House. It was unworthy of a civilized country. The success of a private bill depended, not on its merits, but on the interest by which it was supported or opposed.1154 William Smith disapproved so much of interested voting 'that he had not entered a private committee room for many years', while William Trant 'was resolved never again to enter the door of a private committee room until the business was put on a different footing.'1155 Henry Brougham thought that 'the mode of voting on private bills was so scandalous in its nature, that he had made it a rule never to vote upon a private bill'. He hated seeing members who had not attended any committee meetings 'jobbing in votes'.1156 There were potentially profound conflicts of interest. Henry Bright held that MPs were 'bound to attend to the interests of their constituents in preference to their own; and when a member found that the being a shareholder would prevent his doing his duty, he ought to give up his shares and attend to the interests of his constituents.'1157

Despite these views, Hume's attempts to prevent interested members voting for or against company bills did not win the support of the government. Canning supported Hume in principle, but argued his proposals would be difficult to apply in practice, and concluded that the solution to this delicate question 'must be left generally to the honour and the feeling of members'.8 Peel felt that such a measure would only divert the influences and interests, which were at present openly avowed and unconcealed, 'into secret and hidden channels'. Furthermore, the principle of disqualifying members from voting was dangerous, and should not be casually resorted to.9

The end of the promotion boom of 1824-5 pushed the issue into the background, but it was to resurface with the promotion of railways on a grand scale in the mid-1830s. Between 1836 and 1851, 32 Select Committees were appointed to consider matters relating to the private business of Parliament, many of which were tasked with solving the issue of interested voting.60 There was a public discussion of the relationship between corporate enterprise and the state, and one aspect of this discussion involved the procedure by which the legislature dispensed corporate privileges. As in the 1820s, many MPs concluded that this was corrupt. Daniel Harvey, the Radical MP for Southwark and newspaper proprietor, drew attention to the fact that the committee rooms were being swamped with railway business. These committees were insufficient tribunals and showed 'an excessive indulgence in unwise speculations'. Harvey argued that 'The numbers composing them were too large, the rooms

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54 Ibid., (23 Feb. 1825), c. 638.
55 Ibid., 13 (2 Jun. 1825), cc. 1013-14.
56 Ibid., 12 (23 Feb. 1825), cc. 635-6.
57 Ibid., c. 640.
58 Ibid., 11 (27 May 1824), c. 914.
59 Ibid., 12 (10 Mar. 1825), c. 981.
in which they were held too small, the attendance too crowded and confused, and the motives of many Honourable Members too questionable, through private or public prejudice in favour of one line or in opposition to another, to render a Committee of the House of Commons...the most correct or impartial tribunal.' The 'interests of the public' were often sacrificed in the name of reaching a compromise between the interested parties.\textsuperscript{161} The Radical Henry Warburton agreed, arguing that 'it had appeared very extraordinary and unaccountable to behold individuals sitting in Committee to consider the propriety of a railroad in which they were themselves Proprietors and Directors.'\textsuperscript{162} He was adamant that 'No Member of Parliament concerned in those speculations, or who held shares in them, should sit upon any one of those Committees.'\textsuperscript{163} The Radical Thomas Wakley complained how Members were willing to 'do a little job' and help legislation through for the benefit of private interests.\textsuperscript{164}

Individual cases were highlighted and attracted much opprobrium. Sir Samuel Whalley, MP for Marylebone, had voted for a railway of which he was a subscriber. Lord Granville Somerset successfully moved that his vote be disallowed. The Whig MP and barrister Ralph Bernal called the current situation 'absurd'. He asked whether such a situation would be permitted in any other tribunal. 'In other instances...did they permit any men to sit in the double capacity of Judges and Jurors in their own case?\textsuperscript{165} But many similar cases passed by without censure. Indeed, Whalley quite justifiably complained that he was being unfairly singled out, pointing out that the evening before his vote, five directors of the Dublin Steam Packet Company had voted on that company's Bill, without any complaint being registered.\textsuperscript{166}

Whig Reforms

It was in this context that the Whigs approached the question of the laws regulating companies. The perceived inevitability of the corruption of parliamentary committees encouraged them to pursue the avenue opened by the Tories in 1825, that of incorporation by the Board of Trade, rather than encouraging other means of incorporation. Such a means of incorporation also had the advantages of making Parliament less likely to become bogged down in the discussion of private bills, as had happened in 1825, and of retaining discretion

\textsuperscript{16} PD, third series, 31 (12 Feb. 1836), c. 355.
\textsuperscript{16a} Ibid., 31 (1 Mar. 1836), c. 1121.
\textsuperscript{16b} Ibid., 31 (12 Feb. 1836), c. 365.
\textsuperscript{16c} Ibid., 41 (26 Mar. 1838), c. 1292.
\textsuperscript{16d} Ibid., 32 (20 Apr. 1836), c. 1256.
\textsuperscript{16e} Ibid, 33 (4 May 1836), c. 589.
over incorporation to the ministers of the day. Although the Board still nominally included several great major officers of state, such as the Lord Chancellor, the First Lord of the Treasury, the Chancellor of the Exchequer, and the Speaker of the House of Commons, in practice the twice-weekly Board meetings were usually attended only by the President and Vice-President. All correspondence received by the Board, including petitions for incorporation, was read at these meetings and recommendations were made by the members present.\textsuperscript{167} For a petition to be successful, then, it was crucial that the President and Vice-President were sympathetic to the cause. This sympathy could not be taken for granted. Indeed, this system, established in 1825, did not make for a dramatic extension of the numbers of companies incorporated: in the years between the 1825 Act and the Act of 1834, just thirty applications were received by the Board of Trade for privileges, and only eight of these were granted.\textsuperscript{168} In the shorter period 1827-32, 21 Bills granting corporate privileges were passed by Parliament.\textsuperscript{169} Clearly, the chances of securing privileges were greater by applying to Parliament. But Charles Poulett Thomson, President of the Board of Trade, was not keen on this method of dispensing favours, complaining in the Commons of ‘private bills being smuggled through the second reading, without the House being generally or at all informed of the contents of such bills’.\textsuperscript{170}

Thomson provided the initiative in steps to reform the process by which privileges were conferred in the 1830s. Thomson, former Russia merchant, dogmatic follower of Ricardo, and a member of the Benthamite circle in Parliament which included James Mill, Henry Warburton, and Joseph Hume,\textsuperscript{171} had been Vice-President of the Board since the Whigs had formed a Ministry. On 6 June 1834, the day after his promotion to the Presidency, he ordered that a letter be written to the Attorney General ‘respecting the difficulties which have impeded the execution’ of the Act of 1825 relative to the granting of charters.\textsuperscript{172} The letter revealed a great concern on the part of the President that individuals of dubious character were establishing and investing in companies. This Thomson attributed to unlimited liability, for to invest in an unlimited company with no say in its management ‘would be the highest impeachment of any man’s prudence and sober judgement. Companies thus constituted must therefore fall into the hands of necessitous persons who have nothing to lose; or into the hands of improvident and speculative men’.\textsuperscript{173} But it was in ‘the interest of

\textsuperscript{168} Hunt, Business Corporation, p. 58.
\textsuperscript{169} ibid., p. 51.
\textsuperscript{170} PD, third series, 40 (23 Jan. 1838), c. 354.
\textsuperscript{171} Brown, Board of Trade, p. 17.
\textsuperscript{172} PRO, BT 5/42, p. 115 (6 Jun. 1834).
\textsuperscript{173} Letter to Attorney General, PRO, BT 3/25, pp. 152-3 (7 Jun. 1834).
society at large' that this did not happen.\textsuperscript{174} The Board had, in consequence, granted charters limiting the liability of company members to two or three times the subscribed capital, as a half way house which would both encourage a better class of investor, and protect the public by providing a fund for paying the company’s debts. But such security was illusory, Thomson admitted, for when the company was known or even rumoured to be struggling, the richest shareholders with access to the best information would transfer their shares in order to escape liability, thus shrinking the fund to next to nothing. To counter this, it had been suggested that liability should remain after the transfer of shares for a fixed period, perhaps six years. But this posed many questions, such as how to divide liabilities between past and present shareholders, and whether the length of time a share was held affected the liability. Such issues made it difficult to find a rule to determine the claims of creditors against shareholders, and the claims of shareholders against each other. Thomson could not see a way to resolve these difficulties, so he proposed a reform which would avoid these embarrassments altogether: this was to permit the Board of Trade to grant letters patent conferring solely the right to sue and be sued, without imparting a corporate character to the company thus privileged.\textsuperscript{175}

The Attorney General was favourable, and the result was an Act the same year ‘to enable His Majesty to invest trading and other companies with the powers necessary for the due conduct of their affairs, and for the security of the rights and interests of their creditors’.\textsuperscript{176} The Act, in five sections, restated the right of the Crown to issue letters patent granting some of the powers of incorporation, and set out rules for the company seeking privileges to follow, including the important provision that company officers were to submit twice-yearly lists of all company members including addresses to the clerk of the patents. The Act also made it clear that judgements against the company officer were to extend to company property and the property of all shareholders, as if they had all been parties to the action. The Act did not indicate on what criteria the Crown was to grant or refuse privileges. But a Board of Trade minute shortly after it had become law indicates how the Board intended to interpret the legislation. Control over incorporation was not to be diluted to make the grant of corporate powers a formality; rather, these privileges would be carefully guarded. The government’s adherence to Adam Smith’s line on companies was unmistakable:

\textit{My Lords are of opinion, that although the Act...undoubtedly confers upon the Crown the power of granting limited privileges to public associations applying for them, and specifically points to that of suing and being sued by their Secretary, as one desirable, not only for the benefit of such associations, but of the public with}

\textsuperscript{174} Ibid., p. 153.
\textsuperscript{175} Ibid., pp. 158-9.
\textsuperscript{176} 4 & 5 Will. IV, c. 94.
whom they deal, it is necessary to take care that such powers are not conferred indiscriminately, and that so long at least as the present laws of Partnership remain unchanged, facilities should not be afforded to Joint Stock Partnerships which may interfere with private enterprise carried on under those laws, unless the circumstances and objects of such Joint Stock Companies are of a nature fully to justify such interference, upon the ground of general public advantage.177

The minute went on to outline the circumstances where the grant of special privileges would be justified: when the enterprise was too hazardous for two or three large capitalists, when the capital required was too great for individual partnerships, when extended responsibility was required, or when numerous individuals sought to establish literary societies or charitable institutions. By following these rules, the Board was not demonstrating its attachment to outdated ideology, but was ensuring the application of the principles of political economy to the joint stock economy. In this period the Board was particularly receptive to these principles. Thomson was a Ricardian; Henry Labouchere, Thomson’s Vice-President, was a free-trader; Joint-Secretary to the Board was James Deacon Hume, member of the Political Economy Club and staunch supporter of free trade.178 The Board’s policies cannot, therefore, be written off as backward or reactionary. The minute books of the Board of Trade indicate that the Board subsequently adhered closely to the guidelines set out in 1834, with petitions often rejected on the grounds of the size of a company’s capital. For example, Thomson’s Board rejected the petition of the Scottish Brewing Company in November 1834.79 The change of administration in December had no effect on the Board’s policy. In January 1835, Alexander Baring and Viscount Lowther, the new team at the Board, rejected the application of the Shropshire Coal Company, as they did not ‘think that this undertaking is of sufficient magnitude to require Letters Patent.’180 The following month they refused the Birmingham District Fire Insurance Company, for its proposed capital of £7,986 was ‘so very small’. In March 1837, the Board, again headed by Thomson, agreed to grant letters patent to the Union Plate Glass Company of Manchester: the company’s proposed capital of £180,000 was ‘larger...than individuals would feel inclined to invest’. But the Board was concerned to ensure that the company would not try to enter into competition with private traders, noting ‘it is necessary that security should be given for the correctness of the assertion and provision made against the Letters Patent being obtained under this pretext and a competition entered upon with private enterprise which their Lordships are indisposed unnecessarily to encourage.’ The Board consequently insisted that as a condition of the grant,

178 Brown, Board of Trade, pp. 24-5.
179 PRO, BT 5 42, pp. 260-2 (4 Nov. 1834).
180 PRO, BT 5 42, p. 516 (20 Jan. 1835); BT 5 42, p. 357 (20 Feb. 1835).
at least half of the capital had to be paid up.\textsuperscript{181} This figure was uncomfortably high for the company, however, whose representative wrote back asking whether £24,700, rather than £90,000 would be an acceptable figure for the subscribed capital. The Board did not look favourably upon this suggestion, considering that this ‘would be of too low an amount to justify the grant of the Charter since a concern capable of being carried on with this moderate capital ought, in the opinion of this Board, to be left to individual industry.’\textsuperscript{182} It should be noted that what was at issue was not a grant of limited liability, but merely letters patent, which would give the company the right to sue and be sued. The Board’s reluctance to permit companies with any form of special privileges to compete with private traders indicates an acute awareness on the part of both Whig and Conservative Governments of the potential dangers of exempting too many companies from the rigours of partnership law. This law was viewed as the best means of promoting commercial stability and morality. Thus, while the Act did encourage more applications for privileges, these were far from certain to succeed.

But Thomson did not leave the issue here. His letter to the Attorney General had revealed an interest in the principle of limited liability. As the tide of speculation rose in the mid-1830s, he followed this up by appointing the barrister Henry Bellenden Ker to inquire into the law of partnership, specifically with reference to limited partnerships. Ker gathered evidence from nineteen bankers, lawyers, and merchants. His report indicated that the witnesses had been divided on the issue of limited liability, with a majority opposed, so Ker left these out of his recommendations. Instead, he focused on the issue of powers of suing and being sued in the name of an officer. The difficulty unincorporated companies experienced in suing and being sued ‘often amounts to an absolute denial of justice’, claimed Ker.\textsuperscript{183} At present, companies had to endure the expense and uncertainty of applying for this privilege from Parliament or the Crown. The Act of 1834 was designed to encourage companies to approach the Crown for these powers, but the Act still presented them as a privilege and thus placed the responsibility on the officers of the Crown to judge the ‘propriety or expediency of the undertaking’.\textsuperscript{184} This was wrong. Ker’s report argued, because these powers should be a right. To give large partnerships these powers was the only way to bring them under the jurisdiction of the law, giving protection to themselves and their creditors. So Ker proposed a system by which the deeds of all partnerships of over 10-15 members had to be registered within three months of the formation of the concern with the Enrolment office of the Court of Chancery. On this being completed, shares could be traded in the concern, and it could sue

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{image.png}
\caption{An image that could be related to the text.}
\end{figure}

\textsuperscript{181} PRO, BT 5 44, pp. 236-7 (10 Mar. 1837).
\textsuperscript{182} PRO, BT 5 44, pp. 295-6 (18 Apr. 1837).
\textsuperscript{183} Report on the Law of Partnership, PP, 1837 (530) XLIV.399, p. 4.
\textsuperscript{184} Ibid., p. 8.
and be sued in the name of an officer. Ker also proposed that the process of granting charters or letters patent be simplified and standardised.

The government rejected Ker's suggestion that it renounce its discretion over the grant of suing powers, but it agreed to modify existing procedure. Later that year an Act was passed repealing the 1834 measure and setting out new procedures for the grant of corporate privileges.185 The Act was much longer than its predecessor, running into thirty-two sections. More detailed information was required of companies, including total capital, and the shareholding and liability of each member, but the most important innovation was that shareholder liability was to cease not within three years of a transfer as fixed by the previous act, but upon register of the transfer, a significant concession. However, the Board's minutes in July 1837 indicate that it was more preoccupied with affording the public adequate opportunity to make themselves heard against any objectionable attempts by companies to secure special privileges than with facilitating the grant of these powers.186 Clearly the state was making use of its discretion and only granting privileges to those schemes which it judged to be in the public interest.

The government did receive criticism for retaining control over incorporation. In the Westminster Review, Arthur Symonds argued that the vesting in government of the right of granting and denying charters 'can only be a source of patronage, sought for and obtained by endless begging and intrigue.' He went on to state that 'whatever facilities are now granted by charter or by Act of Parliament ought to be a matter of common right'.187 Symonds found the grant of powers by both the Board and Parliament equally distasteful, but the powers of the former tended to be more controversial. An anonymous pamphleteer complained that the Bill was a step backwards: parliamentary incorporation was to be preferred because 'in parliament all must be open and straightforward', whereas applications to ministers opened the field to 'back-door influence and private friendship'.188 In a pamphlet in 1840, Matthew Lowndes, a solicitor, attacked Thomson for his 'prejudice against Joint Stock Companies'. The Crown should not be able to decide which companies received privileges and which ones did not, as this led to unfairness, and the potential for corruption: 'if parties opposed by interest to a Joint Stock Company associated for a particular trade or branch of trade, can win

185 1 Vict., c. 73.
186 PRO, BT 5 44, pp. 439-40 (21 Jul. 1837). Unfortunately, from July 1839 only unbound rough minutes have been preserved, which are brief and do not provide insights into the Board's decision making process.
over the President of the Board of Trade to the belief that the company is not wanted’, then the application was denied and the company had to struggle on unincorporated.\textsuperscript{189}

The 1830s saw attempts to defuse criticisms of aspects of the joint stock form. Perceived flaws were presented as strengths. A supporter of joint stock banks claimed that ‘The very extensiveness of the partnership, which is cavilled at by men who have not considered the subject, (to say nothing of the \textit{wealth} which there must be in every well-organised Bank), is, in truth, its real security.’\textsuperscript{190} The author rejected the argument that directors could not satisfactorily conduct the business of a bank: the very fact that their actions were ‘under \textit{surveillance}’ in the public eye was conducive to their honesty: bankers who had no such checks and operated in private were far more likely to cheat their clients.\textsuperscript{191}

There was a relationship of trust between the directors, shareholders, and clients of all joint stock companies, not just banks. Trust was the lifeblood of the joint stock system: if this evaporated, ‘the credit, the character, and the existence of the associations would be alike no more, and there would be an end of all such useful and beneficial Joint Stock Societies’.\textsuperscript{192}

Companies were also put forward as solutions to the economic problems facing the country in the 1830s. An advocate of the South American mines presented these ventures as a means of growth for a stagnating economy, arguing that the country could not ‘check the march of distress by mere retrenchment, which, besides acting in a vicious circle, aggravating the evil it seeks to destroy, has already been carried so far, that, consistently with national safety, it can proceed no further.’ Rather, ‘a new enlarged sphere of action must be found.’\textsuperscript{193}

Such voices were for the time being, however, in a minority, and were lost in the tide of condemnation of the speculative boom of 1834-7. This boom had been led by enthusiasm for promoting railway companies and joint stock banks.\textsuperscript{194} Joseph Parkes, a collector of company prospectuses counted 300 companies promoted in this boom: his digest of them is below.

\begin{footnotes}
\item[191]Ibid., p. 19.
\item[192]Ibid., p. 16.
\item[194]Speculation in banks was encouraged by the Bank Charter Act of 1833, which permitted joint stock banks to set up in London. 3 & 4 Will. IV, c. 98.
\end{footnotes}
### Fig. 3.9. Companies Promoted 1834-7

<table>
<thead>
<tr>
<th>Sector</th>
<th>Number of companies</th>
<th>Nominal capital (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Railways</td>
<td>88</td>
<td>69,666,000</td>
</tr>
<tr>
<td>Banking</td>
<td>20</td>
<td>23,750,000</td>
</tr>
<tr>
<td>Insurance</td>
<td>11</td>
<td>7,600,000</td>
</tr>
<tr>
<td>Mining</td>
<td>71</td>
<td>7,035,200</td>
</tr>
<tr>
<td>Canals</td>
<td>4</td>
<td>3,655,000</td>
</tr>
<tr>
<td>Steam Navigation</td>
<td>17</td>
<td>3,533,000</td>
</tr>
<tr>
<td>Investment</td>
<td>5</td>
<td>1,730,000</td>
</tr>
<tr>
<td>Gas</td>
<td>7</td>
<td>890,000</td>
</tr>
<tr>
<td>Conveyance</td>
<td>9</td>
<td>500,000</td>
</tr>
<tr>
<td>Cemetery</td>
<td>7</td>
<td>435,000</td>
</tr>
<tr>
<td>Newspaper</td>
<td>6</td>
<td>350,000</td>
</tr>
<tr>
<td>Misc.</td>
<td>55</td>
<td>16,104,500</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>300</strong></td>
<td><strong>135,248,700</strong></td>
</tr>
</tbody>
</table>

*Source: Select Committee to Inquire into the State of the Laws Respecting Joint Stock Companies, PP, 1844 (119.) VII.1 Appendix no. 4.*

In Scotland the boom came later, starting in 1838, but significantly expanded the size of the joint stock economy. A contemporary Scottish stockbroker, John Reid, recorded that 50 new companies were formed in the four years from 1838 to 1841.

### Fig. 3.10. The Principal Joint Stock Companies in Scotland in 1837 and 1841

<table>
<thead>
<tr>
<th>Sector</th>
<th>1837</th>
<th>1841</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banking</td>
<td>13</td>
<td>24</td>
</tr>
<tr>
<td>Gas</td>
<td>14</td>
<td>18</td>
</tr>
<tr>
<td>Railways</td>
<td>11</td>
<td>17</td>
</tr>
<tr>
<td>Fire and Life Insurance</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Marine Insurance</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>Misc.</td>
<td>12</td>
<td>27</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>61</strong></td>
<td><strong>111</strong></td>
</tr>
</tbody>
</table>


This survey included only the ‘principal’ joint stock companies, therefore excluding those companies of which Reid disapproved, namely those formed to carry out ‘the proper objects of private adventure’. But the summary nevertheless gives a useful picture of company growth in Scotland in this period.
The fashion for speculation engendered much criticism, which closely mirrored the language of 1825. In 1837, Thomas Love Peacock published his *Paper Money Lyrics*, written in 1825-6, and containing ballads satirising the bubbles of those years (‘Oh! where are the riches that bubbled like fountains’?195), which were, according to the author, ‘as applicable now as they were twelve years ago.’196 Fears were raised in both Houses of Parliament about the ‘extravagant mania which would doubtless involve and ruin multitudes’. Speculations, many of which ‘were undertaken solely for gambling purposes’ were being entered into, and they were ‘pregnant with national evil.’197 Charles Mackay published his *Memoirs of Extraordinary Popular Delusions and the Madness of Crowds*, which featured a chapter on the South Sea Bubble. Mackay believed his contemporaries ought to learn lessons from the events of over a century ago: ‘The schemes of the year 1836 threatened, at one time, results as disastrous’ as those of 1720.198 *The Times* wondered at the ‘eager disposition of the public to embark in Joint-stock Companies, notwithstanding their repeated failures and embarrassments’. 99

John Ramsay McCulloch thought that the ‘rage for railway projects has been excited by something very different from a sober examination of the probable profits to be ultimately derived from such undertakings.’2 Worse, the fever had spread to other fields, so that there were now companies being promoted of an ‘absurd’ and ‘dangerous’ nature, in fields better suited to individual enterprise.2 Pamphlets were written ‘to disabuse the people of this country of the enchantment which of late years has spread its delusive fascination, and produced a kind of moral ophthalmia from one end of the kingdom to the other, in every thing ushered into existence under the paternity of a Joint Stock Company.’2 The Glasgow Chamber of Commerce wrote to the Board of Trade complaining of its conferral of exclusive privileges to companies. It stated that the only justification for such privileges was to encourage enterprise when capital was scarce and trade slow, ‘but the history of the past year proves but too clearly that this is a period of redundant capital and excessive speculation and that it is much more necessary to apply a drag than to give a stimulus to commercial enterprise.’ The Chamber went on to ‘express its regret and surprise’ at recent attempts ‘to revive the exploded system of privileged trading by proposals for establishing Banks, Steam Navigation and Manufacturing Companies, with rights and immunities from which the

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2 Ibid., pp. 99-100.
7 Ibid., pp. 421-3.
private trader is sought to be excluded.' Such attempts were unfair to those who traded without privileges, would encourage monopoly and would distort the economy.²⁰³ The trade journal the Circular to Bankers could in no sense be thought to be oppose joint stock enterprise, bemoaning the loss of the government's 1838 Bill on trading companies.²⁰⁴ But the Circular affirmed that 'The moral effect of all joint-stock associations for mercantile objects which are properly within the compass of individual exertion is bad; they introduce, in the place of patient labour and moderate expectations, ambitious hopes and the habit of gambling in shares, with all the frauds incident to that kind of traffic'.²⁰⁵ As a result, the Circular thought it crucial that the state retain its control over incorporation:

The Government should judge and determine whether the objects aimed at by associations be fit and proper to be undertaken by public companies; they should scrupulously discriminate and mark the boundary where trading associations would begin to trench upon, obstruct, and injure individual enterprise, and provide against the waste of capital and labour by granting charters only to eligible and proper applicants.²⁰⁶

The courts displayed a similar attitude, and continued to judge unincorporated companies illegal. In a case of 1837, Vice Chancellor Shadwell decreed that the Anglo-American Gold Mining Company was illegal, 'because it trenches on the prerogative of the King, by attempting to create a body not having the protection of the King's charter, the shares of which might be assigned without any control or restriction whatsoever'. Shadwell ended by condemning foolish speculation: 'The undertaking in question appears to have been a wild project, entered into by speculating persons for the purpose of deluding the weak portion of the public of this country, who too often allow themselves to be gulled by any specious scheme that holds out a prospect of gain'.²⁰⁷ Shadwell's reasoning here was consistent with Chief Justice Best's decision nine years earlier, that 'there can be no transferable shares of any stock, except the stock of corporations or of joint-stock companies created by acts of Parliament'.²⁰⁸

Conclusions

It is therefore apparent that there had been very little change in popular and official attitudes to joint stock companies, and speculation in them, by the end of the 1830s. The continuities

²²⁰⁸ PRO, BT 1 330, f. 13, no. 72 (Apr. 1837).
²⁰⁹ Circular to Bankers, 17 Aug. 1838, p. 49.
²²⁰ Ibid., p. 51
²²¹ Ibid., p. 52.
²²² Blundell v Windsor (1837), 8 Sim. 601, 59 ER 238.
²²³ Duergier v Fellows (1828), 5 Bing. 248, 130 ER 1056.
were obvious. Despite legislation in 1825, 1834, and 1837, companies were in a similar legal position in 1840 as they were in 1800, due largely to the common law interpretation of unincorporated companies, and to the government’s desire to maintain its discretion over granting privileges of incorporation. Popular perceptions mirrored the attitudes of the state, and although some voices of opposition to the exercise of the incorporating powers of the Board of Trade were raised, there was widespread suspicion of speculation, and profound fear of the effects of the over-extension of joint stock enterprise. The numbers of companies, both incorporated and unincorporated, were constantly growing, but these were being contained in, broadly speaking, an unchanging legal and conceptual framework. All this was to change in the 1840s, for reasons which will be explored in the next chapter.
4. Reform or Retrogression?

Legislative interventions between 1844 and 1856 transformed incorporation from a closely-guarded privilege into a freely-available right. This was a two-stage process, with an Act of 1844 rendering all the privileges of incorporation bar limited liability available, and Acts of 1855 and 1856 completing the process by extending access to this final privilege. But there was not a linear and inexorable development from 1844 to 1855-6, from semi-incorporation to full incorporation with limited liability. The motives behind the reforms of the 1840s and the 1850s were very different, as were the respective climates in which the Acts were passed. Prevention of fraud was the principal aim of the Act of 1844, while the liberation of capital was the driving force behind the Acts of 1855-6. Although 1844 saw the abandonment by the state of its right to restrict access to most corporate privileges, this was done not so much because of general confidence in the public benefits of companies, more to afford protection to the large and ever-growing amount of capital invested in these companies. By the 1850s, however, there was a change of priorities. The belief that companies were in the public interest was much more widely held. Speculation was seen as an economic good. The protection of the public from fraud and over-speculation by the government was no longer deemed necessary: indeed, it was seen as positively harmful, as it restricted enterprise. However, informing both sets of reforms was the desire to reform the state. Company law reform was achieved by the reform of the state, by limiting the role of the state in granting corporate privileges, and replacing this role with a mechanical system which would exclude government discretion altogether. In this light, the Acts of 1844, 1855, and 1856 can in some respects be viewed as consistent with tariff reform, in reducing government interference in the economy; with currency reform, in establishing a self-regulating system rather than one which could be interfered with by the state; and with poor law and factory reform, in establishing an authority at one remove from central government to oversee the corporate economy.

Preventing Fraud

Despite the best efforts of the Whigs, by the early 1840s the great majority of joint stock schemes were still applying to Parliament rather than the Board of Trade for privileges. In the
five years 1840-1844, just 19 projects applied to the Board, and eleven were successful, a success rate of 58 per cent. Six of the successful applicants were colonial bank or investment schemes, and two were steam navigation companies. Parliament had to deal with a much larger volume of applications.¹

Fig. 4.1. Selected Private Bills Presented Before Parliament 1840-44 and Percentage Successful

<table>
<thead>
<tr>
<th>Sector of Economy</th>
<th>Bills Presented</th>
<th>Acts Passed</th>
<th>Percentage Successful</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canals/rivers ferries</td>
<td>35</td>
<td>28</td>
<td>80</td>
</tr>
<tr>
<td>Railways</td>
<td>188</td>
<td>137</td>
<td>73</td>
</tr>
<tr>
<td>Markets/bridges/cemeteries</td>
<td>49</td>
<td>34</td>
<td>69</td>
</tr>
<tr>
<td>Gas waterworks</td>
<td>63</td>
<td>41</td>
<td>65</td>
</tr>
<tr>
<td>‘Other’ companies</td>
<td>77</td>
<td>49</td>
<td>64</td>
</tr>
<tr>
<td>Harbours piers docks/fisheries</td>
<td>115</td>
<td>64</td>
<td>56</td>
</tr>
<tr>
<td>TOTAL</td>
<td>527</td>
<td>353</td>
<td>67</td>
</tr>
</tbody>
</table>

Source: Compan n t the Almanac or Year-Book of General Information, 1841-45.

Canals and railways were the most successful applicants, partly due to a great degree of consensus by this time on the desirability of incorporating enterprises for inland transport, partly because the large capitals and influential connections of these companies made securing the passage of a bill that much easier. ‘Other’ companies, made up principally of insurance, iron, and coal companies, with a sprinkling of manufacturing, colonial, and patent schemes of various descriptions, met with a lower success rate, suggesting that these companies enjoyed less political backing. Overall, however, it emerges that both Parliament and the Board of Trade were perfectly willing to grant corporate privileges to those companies which they judged deserving of them. Yet it is clear that parliamentary incorporation was far from a formality, with one in three bills unsuccessful, while applications to the Board of Trade met with a lower success rate still.

The law regarding joint stock companies once more became an issue in 1841, when, in the last days of the Whig Government, Henry Labouchere, the President of the Board of Trade, moved for a Select Committee to inquire into the subject. However, this renewal of governmental interest was not prompted by the desire to extend access to privileges; rather, it was a reaction to a series of insurance frauds which emerged in the late 1830s and early 1840s, highlighting the vulnerability of the money invested in joint stock companies. A Select Committee was formed with a view to identifying measures ‘for the prevention of

¹ Note that several of the applications were for revisions or extensions of powers granted by earlier acts, approaches which were more likely to succeed than first-time applications: the success rate of this latter group
fraud, and the first task of the committee was to gather details of how the recent frauds had been carried out. The committee was only able to meet on three occasions in May 1841 before the summer election, however, and when Peel’s Conservative Party was returned, the committee fell into abeyance. But it was resurrected in May 1843 by William Gladstone, who had just become President of the Board of Trade. The committee met ten more times through the summer of 1843, and took evidence from 21 witnesses, who were asked to discuss not only the recent frauds, but also their suggestions for the improvement of the law regarding joint stock companies.

A full picture of the largest of the frauds, that of the Independent and West Middlesex Fire and Life Assurance Company, emerged from the testimonies heard by the committee. The company was established by a gang led by Alfred Knowles, a shoemaker turned smuggler from Dover, and William Hole, a footman who also kept a small oil shop, from Hythe. By offering more generous terms than their competitors, and by ‘indefatigable advertising’, the company developed a large business, and realized at least £100,000 from duped customers. They bought many properties, which they settled upon their wives. The company had been able to perpetuate the fraud by an outward show of respectability. John Connell, a parliamentary agent, met Knowles on business before he absconded. Knowles ‘appeared to be a very ignorant, uneducated person’, but the company occupied very good premises in Baker Street, and if Connell had had no suspicions, he ‘should have taken the company to be respectable, from the appearance of the office’. During the period of the fraud, the schemers ‘kept their carriages and horses, and lived like princes’. This was just one of a number of frauds whose workings were described by witnesses. The Report was therefore enabled to lay bare the various ‘modes of deception’ adopted by companies, which suggested the danger companies posed to the public as investors in and customers of these concerns. These included the use of fictitious names; the use of respectable names without permission, the issue of misleading prospectuses and advertisements; the insertion of puffs and reports of invented meetings in the newspapers; the prevention of shareholders’ meetings; the falsification of share transfer books; the creation of fictitious votes, to outvote the real shareholders; the creation of false accounts to deceive shareholders; the declaration

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2 1841 Committee.
3 Ibid., p. 72, q. 255 (1843 Committee).
4 Sir Peter Laurie, Ibid., p. 10, q. 97 (1841 Committee).
of dividends out of capital; and the employment of respectable agents to cloak the want of respectability of the company.  

The committee concluded that such frauds were facilitated by the unincorporated status of the companies involved. It was easy for fraudsters to set up companies, obtain contributions, and abscond, as by trading as partnerships, they were beyond the reach of all the controls placed on public companies. There was no register of shareholders, no rules regarding subscribed capital, no accountability at all. The result was that the property entrusted to these companies by shareholders, customers, and creditors, was rendered very insecure. Furthermore, recovery of property from the directors of fraudulent or bankrupt companies in the courts was difficult, for it was possible for defendants to exploit the common law illegality of their companies in order to escape punishment. In several legal cases, defendants would try to avoid paying angry shareholders by arguing that their schemes were illegal bubbles all along. This stratagem was adopted by the promoters of the Potosí la Paz and Peruvian Mining Association, the Anglo-American Gold Mining Association, and the Limerick Marble and Stone Company, in cases in the 1830s and 1840s. Vice Chancellor Shadwell's decision in 1837 in *Blundell v. Winsor*, indicated that these gambits could be successful. Shadwell agreed with the defence that the deed by which the Anglo-American Gold Mining Association was formed was illegal:

> [It] held out to the public as an inducement to them to become partners in the working of these imaginary gold mines, a false and fraudulent representation that they might continue partners in the undertaking just as long as they pleased, and then get rid of all the labour that they had incurred by transferring their shares to some other person...The undertaking in question appears to have been a wild project, entered into by speculating persons for the purpose of deceiving the weak portion of the public of this country, who too often allow themselves to be gullible by any specious scheme that holds out a prospect of gain.

Shadwell therefore found in favour of the defence, concluding that 'The more such schemes are discouraged by Courts of Justice, the better it will be for Her Majesty's subjects.' Those foolish enough to throw their money at such projects should not be able to have recourse to the law to recover their losses.

The lesson to be drawn from the decision was that the property invested in unincorporated companies did not automatically enjoy the protection of the law. Shadwell's method of protecting 'the weak portion of the public' was to confirm the illegality of

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8 Ibid., p. ix.
9 *Walburn v Ingilby* (1833), 1 Mylne and Keen 62, 39 ER 605; *Blundell v Winsor* (1837), 8 Sim. 601, 59 ER 238; *Garrard v Hardey* (1843), 5 Man. and Gr. 471, 134 ER 648; *Harrison v Heathorn* (1843), 6 Man. and Gr. 81, 134 ER 817.
10 *Blundell v Winsor*, pp. 242-3.
11 Ibid., p. 243.
unincorporated companies and to make it clear that investment in these associations could only be ruinous. But despite this, companies still managed to attract capital. Indeed, the amount of capital invested in companies, both incorporated and unincorporated, had grown from around £90 million in 1810 to around £210 million by 1843. The total capital invested in companies had grown to such an extent that the security and stability of this capital had, in the minds of many, become wrapped up in the national interest. If this capital was lost, there would be repercussions through the whole economy. Thus, the idea gained ground that this property deserved to be protected. Two cases decided in 1843 by Chief Justice Nicholas Tindal indicated that this view was winning support in the courts. In both actions, the promoters of the companies being prosecuted pleaded the illegality of their schemes as a main plank of their defence. Tindal was unimpressed by this line of defence, holding that ‘as the illegality of the company is set up by the very persons who constitute that company, in order to avoid the payment of a demand just in itself, it may be fairly required that the affirmative of the pleas should be established by satisfactory evidence.’ Tindal felt that the companies did not succeed in establishing this, for he held that the raising of transferable shares alone did not constitute an offence at common law. A new message was being sent out by the courts, that unincorporated companies were being brought within the law, and that dishonest promoters who had defrauded investors would be answerable to their victims.

The Select Committee, possibly influenced by Tindal’s decisions, was keen to formalise the legality of companies unincorporated by the state. The committee judged that as the recent frauds were facilitated by the fact that the companies involved never had to register themselves, submit returns, or fulfil any other requirements, it was desirable to implement registration and publicity in order to combat fraud. Such a procedure already existed with respect to joint stock banks, obliged under the terms of the Act of 1826 to register with the government. This requirement should simply be extended to all joint stock companies. This would enable the public to obtain full information about a company before deciding whether to invest in or deal with it.

Companies were not to be brought within the law because they had achieved respectability, but because they needed to be made respectable. John Duncan, a company solicitor, told the committee that there was ‘a strong feeling abroad inimical to joint stock companies, and in many quarters they are treated with unlimited abuse’, but argued that it would be ‘a fatal error to legislate upon the subject with any design to give way to those

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13 Harrison v Heathorn, p. 839.
14 Ibid., p. 840; Garrard v Hardey, pp. 652-3.
15 See for example the testimony of Peter Laurie, Select Committee on Joint Stock Companies, p. 10, q. 102 (1841 Committee), and Christopher Cuff, ibid., p. 78, q. 544 (1843 Committee).
inconsiderable prejudices' by increasing state controls over companies, checking investment in them, and encouraging companies to do business without the protection of the law. Rather, he supported 'a course of legislation calculated to make every joint stock company respectable, whether successful or not'. This would be the best way to protect the public. Bringing the unincorporated company within the law would 'attract towards it respectable directors and respectable managers, whence will inevitably result respectable transactions'. When this occurred, the public would be safe.

This was a blanket solution: security to the public was to be provided by applying the same rules to all companies, good, bad, and fraudulent. Such a solution implied that registration would be automatic, ending the state's discretion over incorporation. But there was a difference of opinion among the witnesses on this question. Some, like Edward Bigg, a solicitor and director, were adamant that state discretion should continue:

I would not allow any society to commence business without having the sanction of some public officer or some public board that the proceedings are *bona fide* in the first instance, that the prospectus is founded on something like reason and good faith...and that they should have such a proportion of paid-up capital as to the constituted officer may seem right. 

Henry Bellenden Ker, the author of the 1837 Report, agreed with Bigg, believing that 'much evil would be prevented' by insisting that incorporation only be granted by the Board of Trade. This course of action would not inevitably result in hosts of unincorporated companies: 'if the law prohibited joint stock companies unchartered, and consequently made all their contracts and dealings void, I think there would be no danger of any serious evasion of the law'. But he confessed that he was 'aware that this notion is rather out of date, and that another state of law permitting unchartered companies has probably existed too long to admit of such a great change'.

Ker's pessimism was well founded, for the methods by which the state controlled access to corporate privileges were coming under increasing fire. The railways made the corruption of private bill committees a permanently topical issue. Radicals continued to insist that interested voting in committees lowered the reputation of MPs in the public eye, and was an unfair way to dispense privileges. While their efforts to overhaul private bill procedure

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16 Ibid., p. 162, q. 2064 (1843 Committee).
17 Ibid., p. 174, q. 2090 (1843 Committee).
18 Ibid., p. 96, q. 786 (1843 Committee). The anonymous merchant 'CD' and Joseph Parkes had similar views.
19 Ibid., pp. 117, 237, qq. 1287, 2464 (1843 Committee).
20 Ibid., p. 185, q. 2148 (1843 Committee).
21 Ibid., p. 186, q. 2154 (1843 Committee).
22 Ibid., p. 185, q. 2148 (1843 Committee).
continued to be resisted, their persistence eventually paid off in 1844, when a system of small, impartial committees for railway bills was adopted. Committee members were obliged to sign a declaration of non-interest before being appointed to the committee. But the achievement was only partial: local representation on other private bills continued well into the 1850s. As a result, the popular perception of private bill committees as shady affairs endured, and was expressed in some detail in Trollope's The Three Clerks. Interested MPs agitate for a select committee on the Limehouse Bridge, with the intention of inflating the scheme's share price. The committee is described by Trollope in great detail. The witnesses selected by the proponents of the bridge are all interested in it, and committee members are forced to sit through their self-interested testimonies. To Mr Vigil, one of the committeemen, 'it was all mere nonsense, sheer waste of time. Had he been condemned to sit for eight days in close contiguity to the clappers of a small mill, he would have learnt as much as he did from the witnesses before the committee.' All the members of the committee had made up their mind on the bridge before the committee sat: 'not one of them dreamed of being influenced by anything which had been said before them.' The whole committee was a sham, an absurd ritual.

The private bills of companies other than railways continued to be judged by interested members, and thus continued to be widely seen as profoundly flawed means of granting corporate privileges. But the other means of dispensing these privileges — application to the Board of Trade — was even more unpopular. Partly, it seems, as a result of this criticism, the Board itself came to dislike carrying out these duties. In 1844, Gladstone told the House that the Board's powers of granting and denying charters 'caused him and all connected with him in his office very great anxiety and uneasiness.' He went on to assure the House 'that when he was sitting in the Board of Trade with others about him, attending, to the best of his ability, to his duties, there was nothing gave the Board so much uneasiness and annoyance as the exercise of the discretionary powers already vested in them as to the management of commercial matters.'

Thus, the growing unpopularity of both means by which the state incorporated joint stock companies seriously undermined the legitimacy of the state's discretion over incorporation. Parliament was unfit to judge which companies deserved to receive privileges because too many of its members were personally interested either in promoting or blocking

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24 It was finally abolished in 1855. Ibid., p. 88.
26 Ibid., pp. 391-2.
27 See chapter three.
28 PD, 76 (3 Jul. 1844), c. 276.
bills, while it was constitutionally unsound for the Board of Trade to make such important decisions concerning large amounts of property. This decline in popularity was reflected in the attitude of the committee to those witnesses who, like Ker, wanted to retain state discretion over incorporation. Ker was told by Sir William Clay that his ‘restrictive policy...might perhaps be presumed to be very difficult of adoption in this country after the degree of practical countenance which joint stock companies have received, and the manner in which they have become interwoven with the commercial habits of the people’. The committee looked more favourably on those witnesses who advocated automatic incorporation on registration. Thomas Newman Farquhar, a company solicitor engaged in securing the passage of company bills through Parliament, thought it ‘monstrous’ that companies should have to pay several hundred pounds ‘to obtain that which the law ought not to give as a favour, but to impose upon them as a necessity or a duty.’ That such views were held by the committee was made abundantly clear by exchanges such as this, between Gladstone and Farquhar.

Chairman: You mean to convey to the Committee that in your opinion the advantage is so great to the public of always having some notorious person in whose name they may sue the Company, that although there may be also an incidental disadvantage in giving a sort of quasi public sanction to unsubstantial undertakings by the existence of such an officer under Act of Parliament, yet, weighing together the advantage and the disadvantage, you think the advantage greatly preponderates. Decidedly.

Predictably, therefore, the Committee’s Report, issued in March 1844, recommended against protecting the public by increasing the discretion of the state over incorporation, as this method was held to be flawed. Instead, the public were to be protected by moving in the opposite direction by removing state control over incorporation. The committee advocated the construction of a mechanical system of registration which bypassed both Parliament and the Board of Trade. This reform was not to eliminate regulation, but to replace state regulation with regulation by public opinion. The state was unable to grant or deny corporate privileges in the public interest. This was particularly true in cases of companies founded on unsound calculations, for ‘any authority appointed to act as censor would be as liable to be deceived as the promoters of the schemes, and it might sometimes sanction bad, and at other times prevent good, schemes.’ But the same was true for poorly constituted companies and fraudulent companies. Such concerns were best regulated not by the state, but by public opinion. Compulsory company registration and publicity would ‘baffle every case of fraud’

29 Select Committee on Joint Stock Companies, p. 189, q. 2177 (1843 Committee).
30 Ibid., p. 36, q. 468 (1841 Committee).
31 Ibid., p. 84, q. 708 (1841 Committee).
32 Ibid., p. v.
by enabling people to make informed decisions regarding with whom they would do business and in which companies they would invest.\textsuperscript{33}

The Government introduced a Bill based on the conclusions of the committee, which proposed to establish a Joint Stock Companies Registrar, and which set out a detailed procedure of registration, running to 130 clauses.\textsuperscript{34} Before any company could advertise itself to the public in any way, it had to provisionally register with the Registrar, setting out the company name, its purpose, and the names, occupations, and addresses of the promoters. After provisional registration, the company could begin to raise capital, though shares could not be transferred until complete registration had been secured. To accomplish this, companies had to register more detailed information with the Registrar, including details of nominal and subscribed capital, information relating to shareholders, and the company's deed of settlement. When a company had completely registered, it had most of the privileges of a corporation. Its responsibilities were not over, however. Companies had to make twice yearly returns to the Registrar, balance sheets had to be produced at each meeting of shareholders, and annual audits were compulsory.\textsuperscript{35} Some opponents of the Government feared the Bill would increase the power the Board of Trade had over companies. Benjamin Hawes, a Radical, thought that 'from beginning to end Joint-Stock Companies were to be placed under the control of the Board of Trade.'\textsuperscript{36} John Parker, a Whig, thought that the Bill 'would confer very great patronage on a certain office in Whitehall.'\textsuperscript{37} But in fact the Registrar was not to have any power to 'regulate' companies in any meaningful sense. The Bill originally proposed that it should be 'the duty of the registrar to satisfy himself of the legality of any instrument before he affixed the seal of the company to it.' But Gladstone soon removed this clause, telling the House that it was 'a large discretion, and almost amounted to the establishment of a double government of the concern.'\textsuperscript{38} The only regulation imposed on companies would be that of public opinion.

The Bill passed through its stages easily: Gladstone had ensured it would appeal to everyone. For those who wanted to improve access to corporate privileges, Gladstone underlined that, under this Bill, people would be able for the first time to form companies 'without the fear of interference from any human being whatever.'\textsuperscript{39} For those, on the other hand, worried about the lawlessness of joint stock enterprise, Gladstone stressed that the aim of the measure was to bring companies within the law, 'to give a statutable position to Joint

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\textsuperscript{33} Ibid.
\textsuperscript{34} 7 & 8 Vict. c. 110.
\textsuperscript{35} See ibid., sections 11, 37, and 38.
\textsuperscript{36} Pd, 76 (3 Jul. 1844), c. 273.
\textsuperscript{37} Ibid., c. 279.
\textsuperscript{38} Ibid., (28 Jun. 1844), c. 101.
\textsuperscript{39} Ibid., (3 Jul. 1844), c. 277.
Stock Companies, subjecting them to general inspection, and providing for their constitution and regulation. The Bill would create a public office ‘to which all parties soliciting to take part in Joint Stock Companies might repair, in order to know the real history of these companies.’ Indeed, it was the anticipated brake placed on fraud which won the measure most of its plaudits. Walter James, a Conservative, thought the Bill would discourage bubble companies. James Wortley, another Government supporter, thought the Bill would undermine sham railroad companies. But the Bill also won support from outside the Conservative Party. Joseph Brotherton, a Liberal, declared that the Bill would defeat fraudulent schemes, and thought it a ‘useful and valuable measure for the protection of the community.’ Commentators were optimistic that the measure would limit opportunities for fraud. James Burchell, director of the Mutual Life Assurance Company, thought the Act (the objects of which were ‘undeniably excellent’), was ‘calculated to enable honest persons safely to enter into engagements with a view to fair profit and benefit either to themselves or families, and to prevent the dishonest from extracting the loose cash from the pockets of their unsuspecting neighbours.’ George Henry Lewis, a lawyer, wrote that prior to the Act, ‘The only limits or restrictions placed upon the formation of these companies, were the extent of the will and ingenuity of the projectors; and the mode of operation was equally uncontrolled.’ This would now change. The Times called the measure the ‘Anti-Bubble Bill’, and thought it was entirely uncontroversial: ‘The simple aim and object of the measure, so far as we understand it, is to preclude the growth and to detect the knavery of those fictitious and scheming adventures, which, under the guise and name of trading companies, are continually being devised’. The Manchester Guardian was also supportive, holding that ‘The small amount of control possessed by the proprietors in these companies over the directors, coupled with the fact that many of the former are persons not at all conversant with business, affords, we think, a sufficient ground for the interference of the state.’ The belief was now widespread that the state had a responsibility to stabilise and secure the property invested in these bodies.

The Act was intended to extend protection of shareholders by bringing companies and their capital within the law. The courts were also attempting to render investment safer by

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40 Ibid., 75 (10 Jun. 1844), cc. 475-6.
41 Ibid., 76 (3 Jul. 1844), c. 275.
42 Ibid., cc. 280-1.
43 Ibid., c. 281.
44 Ibid., c. 280.
46 George Henry Lewis, The Liabilities Incurred by the Projectors, Managers and Shareholders of Railway and Other Joint-Stock Companies Considered And Also the Rights and Liabilities Arising From Transfers of Shares (London: Smith, Elder, and Co., 1845), p. 11.
47 The Times, 4 Jul. 1844, p. 4.
limiting the freedom of action of company boards. A decision of Lord Langdale in 1846 is indicative of this. The Eastern Counties Railway Company wished to establish a steam-packet company to connect to its rail line. The directors of the company proposed to guarantee the profits of the steam-packet company from the capital of the railway company, and in the event of the failure of the new company, to pay back to its subscribers their investments in full from this capital. Langdale prohibited this, commenting:

> Considering the vast property which is now invested in railways, and how easily it is transferable, perhaps one of the best things that could happen to them would be, that the investment should be of such a safe nature, that prudent persons might, without improper hazard, invest their monies in it.49

However, there were limits to the changes implemented in the 1840s. For a start, the Act of 1844 did not permit perfectly free transfers of shares: liability for the debts of companies would continue for three years after the transfer of shares.5 Furthermore, the Act did not grant limited liability. This was still regarded as a privilege too important and too controversial to be made generally available. Indeed, events of the second half of the 1840s were to convince many that the state had made access to corporate privileges too easy, and that any further extension would not be in the public interest.

**The Joint Stock Companies Act in Practice**

As the Joint Stock Companies Act was passing through Parliament, investment in the leading joint stock sector of the economy, railways, was beginning to reach unprecedented proportions. The profitability of many of the lines established in the 1830s was noted, and a sequence of good harvests meant there was a great amount of capital waiting to be invested. As R. W. Kostal has commented, ‘Steam locomotion had captured the public imagination at the precise time when investment capital was available in abundance.’51 The result was a rush on the part both of established companies, and landed and business interests, to promote new lines, culminating in what contemporaries termed a ‘mania’ for railways in 1844-6. The specialist railway press boomed, while other papers greatly expanded their coverage of railway affairs and share prices. *The Economist* doubled in size in 1845 to accommodate its ‘Railway Monitor’; the *Course of the Exchange*, the Stock Exchange stock and share list,

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49 Colman v Eastern Counties Railway Company (1846), 10 Beav. 1, 48 ER 481, p. 488. I am grateful to Paddy Ireland for drawing my attention to this case.
50 7 & 8 Vict. c. 110, section 66.
recorded 121 different railway securities in February 1845, and 263 in October. The same was true of the provincial press: the Leeds Intelligencer had devoted no more than five per cent of its column inches to railways in 1836, but by 1845, approximately half of a much enlarged Intelligencer was given over to railway business.

The enormous popularity of new schemes created a climate in which overly-hopeful projects could be easily promoted, and, even more harmful, in which fraudsters could set up companies with a view to pocketing subscribers' deposit money and fleeing. As Fig. 4.2 shows, the newly-established Joint Stock Companies Registrar was kept busy through late 1845.

**Fig. 4.2. Companies Provisionally Registered With Joint Stock Companies Registrar, 1845**

<table>
<thead>
<tr>
<th></th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
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<td>Registrations</td>
<td>16</td>
<td>31</td>
<td>26</td>
<td>53</td>
<td>92</td>
<td>91</td>
<td>176</td>
<td>458</td>
<td>366</td>
<td>87</td>
<td>32</td>
<td></td>
</tr>
</tbody>
</table>

*Source: Report by the Registrar of Joint Stock Companies to the Committee of Privy Council for Trade, PP, 1846 (694) XLIII.1, pp. 3-28.*

The majority of these schemes were railway projects. For example, in the week beginning 6 October, when the mania was at its height, 110 schemes were provisionally registered, 92 of which were for the construction of railways. Given such a volume of registrations, it was impossible that all were sound projects. Some were ill-conceived, others were hatched by charlatans cynically cashing in on the massive public appetite for railways. In late October, confidence in many railway schemes began to falter. As the extent of the frauds perpetrated became known, doubt turned to panic. Investors rushed to offload their scrip, prices dropped dramatically: the result, in the words of William Aytoun in Blackwood's, was 'a grand interment of capital.' The inflation of popular hopes of railway enterprise to such unrealistic proportions through the course of 1844 and 1845, and the sudden disappointment of these hopes at the end of 1845, left a serious mark on perceptions of railway schemes in particular, and joint stock companies in general, for many years to come, and led to lengthy disputes between directors, shareholders, and creditors.

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52 Course of the Exchange, 7 Feb. 1845; ibid., 17 Oct. 1845.
54 Report by the Registrar of Joint Stock Companies to the Committee of Privy Council for Trade, PP, 1846 (694) XLIII.1, calculated from pp. 22-4.
56 Kostal, Railway Capitalism, ch. 2. While the collapse of 1845 did not cripple railway investment, with new promotions emerging in great numbers in 1846-7, share prices did not return to their 1845 levels.
The railway mania provided ammunition for moralists of all descriptions. The Church railed against the lax morals which fuelled the speculation. The Reverend John Cumming told his audience at the Young Men's Christian Association that the 'railways came to be all but canonized. A whole generation offered all they had as incense, and rushed as victims to the irresistible mania of railway enterprise.' Several novelists in the late 1840s and 1850s tackled the railway mania, a theme around which they constructed moral tales of warning. One such described the mania as 'one of the most swindling movements that ever disgraced any country or age.' Such derogatory remarks were not reserved for railway enterprise alone. An anonymous author believed that commercial standards as a whole were being dragged down, claiming that 'in the "haste to be rich," things are done, and done deliberately, of which a delicate conscience would disapprove; that conscience is frequently lulled to sleep by the assertion, "Everybody does so: why should I pretend to be nicer than my neighbours?"' Society encouraged this behaviour, for 'the successful rogue is honoured and feted'. The problem as some saw it was the increasingly common, yet false, belief that religious rules did not regulate commercial behaviour. A. J. Morris condemned the prevailing feeling 'that religion and business are two distinct things: that they belong to different departments, and have different rules and principles.' The Reverend Robert Bickersteth bemoaned the 'unhappy and unscriptural distinction' commonly made 'between the pursuits of commerce and those of religion'. The Reverend J. B. Owen, a London Minister, told the Manchester Young Men's Christian Association in December 1855 that 'society is damaged by the unchristian trader's example, familiarising others with the idea that Christianity has nothing to do with business'. A code of loose mercantile morals 'infects the public and has a tendency to generate crises of epidemic speculative mania.' Men were encouraged to trade beyond their capital, thus bringing the property of others into jeopardy. The Reverend Canon Stowell urged the same audience not to rush into new schemes, or 'give way to a

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58 For example Catherine Sinclair's Sir Edward Graham: Or, Railway Speculators, Robert Bell's The Ladder of Gold, and Emma Robinson's The Gold-Worshippers.
60 Anon., Commercial Morality; Or, Thoughts for the Times (London: Smith, Elder and Co, 1856), p. 3.
61 Ibid., pp. 4-5.
65 Ibid., p. 22.
66 Ibid., p. 11.
restless thirst for gain. Many contemporaries concluded that the best way to remoralise commercial behaviour was to reform the legislative framework within which companies operated. The 1844 Joint Stock Companies Act came under heavy fire. Designed to combat fraud, it had in practice facilitated swindles. Provisional registration gave an unearned gloss of respectability and state sanction to sham enterprises, and lured innocent investors to their ruin. The Railway Record urged the Government to ‘act with lasting honour to itself, and with lasting benefit to the community at large’, by imposing greater controls on the registration of all joint stock companies. A series of insurance frauds in the late 1840s and early 1850s led others to similar conclusions. J. Hooper Hartnoll, proprietor and editor of the Post Magazine, the self-proclaimed accredited organ of the insurance interest, devoted himself to exposing these frauds in his magazine. To try to influence government opinion, Hartnoll set out his view of the joint stock economy in a pamphlet of 1853. He was certain that the 1844 Act was defective in preventing shareholders and the public from being made the victims of low fraudsters. He appealed to the President of the Board of Trade to ‘reflect upon the extent of individual suffering that...must continue to result, so long as every scheming vagabond who can scrape ten pounds together to take to the Registrar, is permitted to set up an Assurance Company, and announce that it is “Empowered by Act of Parliament.”’ The Board of Trade had been rendered a ‘convenient...vehicle for the operations of some of the greatest villains London can produce.’ More stringent measures were needed to filter out dishonest applications for incorporation. Without them, the greater part of the £5m annually paid by the public on policies would continue to pass into the hands of ‘dishonest persons’ and ‘needy adventurers’.

The Joint Stock Companies Registrar, Francis Whitmarsh, was deeply critical of the working of the 1844 Act. Asked towards the end of 1849 whether colonial companies established in Britain and funded by British capital needed to register under the Act of 1844, Whitmarsh advised in strong terms that he did not think that these companies should be exempt from registration. Allowing them to operate outside the statute would mean that ‘the same system of mischievous speculation and ruin to shareholders in such companies, may be

68 Ibid., p. 31.
69 Railway Record, 24 Jul. 1852, p. 476.
71 Ibid., pp. 38-9.
carried on by designing and fraudulent persons, as the Act intended to check and defeat in companies established for purposes of trade in this country.' He believed that the Act should be modified so as to bring these companies within its scope, in order to 'maintain a proper check or control on them'. Whitmarsh concluded his letter by promising to submit more detailed proposals for the amendment of the act, and he did so the following February, offering no less than 38 pages of recommended alterations. It could be argued that this was nothing more than the unrealistic 'wish list' of a bureaucrat bent on hindering rather than helping the companies it was his job to register, and that his recommendations should not therefore be taken particularly seriously. But his suggestions, inspired by the examples he had witnessed of the deception of the public and the evasion of the law, were designed predominantly to redress the balance of power between directors on one hand, and their shareholders and the general public on the other. Among the most important of his proposals were that the signatures of three promoters be required for a certificate of provisional registration, rather than the one currently required; that certificates of provisional registration be renewable only once rather than indefinitely; that all clauses in the deed of settlement fixing remuneration for promoters must be approved by a General Meeting of the company, and that all contracts made previous to, or during, provisional registration, be confirmed at a General Meeting after complete registration; that compulsory registration of prospectuses, abolished by an Act of 1847, be reintroduced; that one-tenth of the company's capital be paid up and deposited with the company banker before the deed was signed; that penalties be imposed on directors for 'insufficiencies' in the deed of settlement: that the annual returns required from companies be made more detailed, and that penalties be levied for incorrect returns; that returns be made to the Registrar of the Minutes of all General Meetings; and that companies not making returns be referred to the Attorney General. Whitmarsh also attached a letter from George Taylor, the Assistant Registrar, proposing to make companies' balance sheets more accurate. From an inspection of the balance sheets registered at the office, argued Taylor, 'it was clear that the existing provisions as to the preparation and audit of accounts had almost entirely failed in effecting the objects for which they were enacted' — to allow shareholders and the public insight into the financial condition of every registered company. Taylor thought that by requiring the registration of balance sheets, the legislature had placed itself 'under a moral obligation to use all reasonable means of securing that the information conveyed by the Balance Sheet shall be accurate and trustworthy.'
While the easy terms on which registration was granted were coming under fire, the increase in companies granted limited liability either by Parliament or by the Board of Trade was even more controversial. The increasing prosperity of the 1850s was reflected in the numbers of applications to Parliament and to the Board of Trade by businesses seeking limited liability. In the three years 1850-2, the Board received 62 applications, one more than it had done for the 13 years between 1837 and 1849.\textsuperscript{76} 40 of these applications were successful. In 1853 Parliament passed twenty private bills granting limited liability, more than any year since 1846.\textsuperscript{77} The unusually high numbers of grants helped to make limited liability a favourite topic of discussion in newspapers, magazines, quarterlies, pamphlets, Parliament, and even in debating societies. The Political Economy Club in London discussed the topic three times between 1853 and 1856.\textsuperscript{78} The Union Society of London debated the subject in 1856.\textsuperscript{79} Both the Birmingham and the Edgbaston Debating Societies tackled it in the early and mid-1850s.\textsuperscript{80} It is clear from the upsurge of interest in these diverse quarters that the increase in grants of limited liability was controversial, with many criticising the wisdom of creating a large body of limited companies, and fearing for the moral foundations of Britain's commercial greatness.\textsuperscript{8} The increased activity of the Board attracted particular attention. The practice of petition and counter-petition which had always accompanied applications for privileges became more frantic, and the Board's decisions became the object of much greater scrutiny. One company's application became the focus of much indignation. The London, Liverpool, and North American Screw Steamship Company asked the Board for its liability to be limited: an application which was vigorously opposed by Cunard, and other shipowners operating with unlimited liability on the North Atlantic. William Brown, Liberal MP for Lancashire South, led the assault in the Commons, and moved for copies of all correspondence between the company and the Board of Trade on the application to be laid before the House, to enable the opponents of limited liability to counter the arguments put forward by those who sought the privilege.\textsuperscript{82}

Thus it can be seen that the Government was coming under serious pressure from a number of quarters to restrict access to corporate privileges, and to make the terms by which

\textsuperscript{76} Six applications were received in 1850, 15 in 1851, and 41 in 1852. These figures exclude applications for supplemental charters by companies which had already been granted privileges. \textit{Returns of All Applications to the Board of Trade for Grants of Charters With Limited Liability}, PP. 1854 (299 LXV.611).

\textsuperscript{77} Ibid., pp. 21-2.


\textsuperscript{79} London Guildhall Library, Union Society of London, MS 22405.

\textsuperscript{80} Birmingham City Library, Birmingham Debating Society, MS 607 133; MS 607 3.


\textsuperscript{82} PD, 123 (7 Dec. 1852), cc. 1071-5.
these privileges were granted far more demanding. The belief was widespread that the 1844 Act had done little to discourage fraud, and that it had even in some respects increased opportunities for fraud. Seemingly, if there were any legislative innovations in the field of joint stock enterprise in the 1850s, these would be to tighten up the law in order to protect the public. To explain why the legislation of 1855-6 moved in the opposite direction, it is necessary to consider the profound ideological shift which took place in the 1840s and 1850s, reversing traditional views on joint stock enterprise.

Reversals

The Great Exhibition of 1851 was at the heart of this ideological shift. The Exhibition's Commissioners exploited the joint stock company form to raise funding. Obtaining a charter from the Board of Trade in 1850, they managed to attract a large amount of capital from City sources, including Samuel Jones Loyd (later Lord Overstone), Thomas Baring, Samuel Morton Peto, Baron Rothschild, and the Bank of England.83 The magnificence of the Crystal Palace, and the dazzling success of the Exhibition raised the profile of limited liability, giving the advocates of the principle a new weapon: one MP reminded the House that if the principle of unlimited liability had been adhered to, 'that greatest work of modern art and science, the Crystal Palace, would never have been witnessed.'84 The Exhibition itself, while certainly representing an 'assertion of British pride and prosperity',85 also engendered fears in some circles that Britain was in danger of falling behind her rivals industrially and scientifically.86 These concerns had a huge impact on the limited liability debate. This debate had always been conducted with reference to the experience of other countries. The general availability of limited liability in most European nations and North America had hitherto effectively been a block on making the privilege similarly available in Britain. Notions of the superiority of British law, and the absence of any need to promote investment in Britain, had combined to bolster the rule of unlimited liability. But this changed in the 1850s, partly as a result of the Great Exhibition. There was a new awareness of the sophistication of the economies of Britain's rivals, and a consequent willingness to look to these countries for commercial ideas. It was argued that Britain's attachment to unlimited liability would prove lethal: 'such a country as Great Britain cannot stand still, it must either rapidly advance or be overtaken by more energetic nations. There exist at the present moment abundant facts to establish the

84 Robert Col 'er, PD, 134 27 Jun. 1854), c. 755.
opinion that without a new impetus our manufactures and commerce will henceforth decline. The urge to speculate was seen as part of that drive which had secured Britain its dominant place among the nations. If this urge was curbed, the nation's greatness would be jeopardised: 'When Englishmen will be satisfied with the tame security of the Three per Cents, their career will have been run. They will have fulfilled the task allotted to them in the great Scheme, and will be required to make way for a stronger race.'

Interestingly, the availability of limited liability for non-acting partners in Ireland since 1782 did not prove to be an influential argument for its adoption in England. Indeed, for a long time it reinforced the idea that limited liability was a measure only required in poor economies which suffered from a lack of investment capital. Grattan's Parliament had explicitly passed the measure as an attempt to induce economic development and provide employment, to try to curb the expected rush to emigrate to North America at the conclusion of peace. Furthermore, though initially used quite frequently, by the 1840s and 1850s the Act had fallen into disuse.

### Fig. 4.3. Partnerships Registered under Anonymous Partnerships Act, 1782

<table>
<thead>
<tr>
<th>Period</th>
<th>No. of partnerships formed</th>
<th>Total capital (£)</th>
<th>Average capital subscribed per year (£)</th>
<th>Average capital per partnership (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1782-99</td>
<td>109</td>
<td>311,753</td>
<td>17,320</td>
<td>2,860</td>
</tr>
<tr>
<td>1800-17</td>
<td>274</td>
<td>1,316,431</td>
<td>73,135</td>
<td>4,804</td>
</tr>
<tr>
<td>1818-35</td>
<td>86</td>
<td>356,730</td>
<td>19,818</td>
<td>4,148</td>
</tr>
<tr>
<td>1836-53</td>
<td>39</td>
<td>115,051</td>
<td>6,392</td>
<td>2,950</td>
</tr>
<tr>
<td>1782-1853</td>
<td>508</td>
<td>2,099,965</td>
<td>29,166</td>
<td>4,134</td>
</tr>
</tbody>
</table>

Source: *R val C mmissi n on the Assimilati n of Mercantile Laws in the UK and Amendments in the Law of Partnership as R gards the Question of Limited or Unlimited Resp nsibility*, PP. 1854 (1791) XXVII.445, Appendix.

In the first eighteen years of the century, well over a million pounds was subscribed to limited partnerships in Ireland, with an average of over fifteen companies being established

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88 Anon., 'Partnership with Limited Liability', p. 401.
every year. But in no year after 1814 did more than ten partnerships register in any one year, and from the 1830s, the Act became insignificant. The size of partnerships registering also dwindled, from an average capital per firm of almost £5,000 in 1800-17, to less than £3,000 in 1836-53. The Irish Famine adversely affected registrations: only ten partnerships registered in the 1840s. But the decline had set in before the famine. James Kennedy told the 1854 Royal Commission that the Act of 1782 was 'a dead letter. Its provisions are so loose and have been interpreted so illiberally by our courts that no lawyer would advise his client to take advantage of the Act.' The existence of general limited liability in France and the United States was far more influential on attitudes to reform in the 1840s and 1850s.

Debates on limited liability after the Great Exhibition stressed the encouragement the principle had given to industrial progress in Britain. The railways were the most obvious example. The frenzy for railway speculation may have ruined many, but it had funded astonishingly rapid construction: in 1837, just 540 miles of track had been laid; by 1851, this had risen to 6,802 miles, more than a twelve-fold increase. In a period of just five years (1846-50), no less than 4,028 miles of track were laid. Steamship companies were establishing communications with the other continents. Telegraph companies were improving internal communications. That these highly visible and useful benefits had been delivered by the agency of joint stock companies operating with limited liability improved the public image of this form of business organisation, associated companies in the public mind with technological progress, and was a powerful argument for those who wanted to extend the operation of such companies. According to the Morning Post, limited liability had 'covered our country with railroads, canals, and great public works' and had 'set on every sea magnificent fleets of steamers'. Robert Collier asked, 'to what did we owe our railways, canals, docks, fleets of steamers, and all our greatest works? not to the observance, but to the breach of the law of unlimited liability. But for the violation of that law, we should still have travelled in stage coaches, and voyaged in sailing packets.' The benefits were real and undisputed, but supporters also speculated as to what as yet unimagined inventions might be financed were limited liability made generally available, for 'not every Watt has found his Bolton.' Unlimited liability discouraged the rich from investing in unproven inventions, as the risk was too high; a change in the law would make it easier for men of genius and men of capital to combine forces, to the ultimate benefit of the nation.

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90 Royal Commission on the Assimilation of Mercantile Laws in the U.K and Amendments in the Law of Partnership, as Regards the Question of Limited or Unlimited Responsibility. PP, 1854 (1791) XXVII.445, p. 136.
92 Morning Post, 27 Jul. 1855, p. 4.
93 PD, 134 (27 Jun. 1854), c. 755. See also Bouverie, PD, 139 (29 Jun. 1855), c. 311.
94 T. Howell, Select Committee on the Law of Partnership, PP, 1851 (509) XVIII.1, q. 156.
Despite continued criticism of the policies of railway, steamship, and other companies, joint stock enterprise was attaining a new respectability, increasingly associated as it was in the public mind with technological, commercial, and social progress. This was partly due to the increasing familiarisation of Victorians with the joint stock economy. Companies were becoming an increasingly familiar part of life for the mid-Victorians, as their numbers were growing all the time. In the ten years between the passing of the 1844 Act and the limited liability debates of 1855, over 3,500 companies were provisionally registered, and nearly 900 were completely registered.

Fig. 4.4. Companies Provisionally and Completely Registered 1845-1854

<table>
<thead>
<tr>
<th></th>
<th>1845</th>
<th>1846</th>
<th>1847</th>
<th>1848</th>
<th>1849</th>
<th>1850</th>
<th>1851</th>
<th>1852</th>
<th>1853</th>
<th>1854</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provisionally Registered</td>
<td>1520</td>
<td>292</td>
<td>215</td>
<td>123</td>
<td>165</td>
<td>159</td>
<td>211</td>
<td>414</td>
<td>339</td>
<td>239</td>
<td>3677</td>
</tr>
<tr>
<td>Completely Registered</td>
<td>57</td>
<td>112</td>
<td>98</td>
<td>63</td>
<td>68</td>
<td>57</td>
<td>63</td>
<td>110</td>
<td>124</td>
<td>132</td>
<td>884</td>
</tr>
</tbody>
</table>


While companies registered under the Act of 1844 did not enjoy limited liability, more companies than ever before were acquiring this privilege by application either to the Board of Trade or to Parliament. Between 1844 and 1853, the Board of Trade granted charters to 65 enterprises, mostly commercial companies. In the same period, Parliament passed 135 private bills conferring limited liability, not including the many more railway acts also granting limited liability passed during these years. The accepted scope for limited liability was clearly expanding. Whereas limited liability had been seen as a privilege to be granted in only extraordinary circumstances, it was increasingly viewed as standard in a wide range of enterprises, such as the provision of gas and water, the construction of harbours, docks, and piers, and the establishment of cemeteries. As more of these domestic improvements were set in train, the grant of limited liability almost became a commonplace. The claim that the

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96 Returns of All Applications to the Board of Trade For Grants of Charters With Limited Liability.
97 266 Railway Acts were passed between 1831 and 1843, 85 of which incorporated new railways. Between 1845 and 1847, 576 Railway Acts were passed. Thereafter, the number of Acts decreased, but remained significant: 144 were passed between 1850 and 1852. Return Relating to Railway Bills, PP, 1840 (545) XLV.261, pp. 2-5; Return of the Number of Railway Bills Brought into Parliament in Each Year Since 1839, PP, 1843 (571) XLIV.43, pp. 1-2; Henry Grote Levin, The Railway Mania and its Aftermath 1845-1852 [1936] (Newton Abbot: David and Charles, 1968), p. 473.
principle of unlimited liability was founded upon the rule of natural justice, that men who
shared in the profits of a business should be fully responsible for its losses, was therefore
becoming ever less tenable. Collier argued, 'if any such rule of natural justice existed...that
rule was violated annually by that House in the case of every railway Bill which it passed,
and was violated also every time the Crown...granted a charter of incorporation to a trading
company.'98 If it was right to grant privileges in some cases, argued Edward Bouverie, it was
right to grant them generally.99 The trend of the age towards association was widely
remarked, and almost as widely approved.100

Companies strove to leave a favourable impression on the public by means of a
powerful physical presence. From the 1830s, joint stock companies in London were more
visible than hitherto. From 1833, joint stock banks were allowed in the capital, and new
institutions were soon established to take advantage of the law: by the end of the 1830s there
were five joint stock banks in the City: the London and Westminster, the London Joint Stock,
the Union bank of London, the London and County, and the Commercial of London. The first
of these opened a new head office in Lothbury in 1838, as David Kynaston notes, 'brashly
towering above its next-door neighbour the private bank Jones Loyd.'11 This was part of a
deliberate policy of differentiation from the private banks, against which the new joint stock
banks had to compete. Private banking houses were modest structures which aimed to reflect
the personal qualities of their private banker owners, especially discretion and integrity, on
which the success of their businesses was founded. The bank's parlour where private business
was transacted was often modelled on a Georgian drawing room, while the banker and his
family would in many cases live above the bank. The bank was therefore in many ways
expressive of the personality of the banker.12 Joint stock banks had a different set of
priorities, and had to project different ideas. They dealt with a larger clientele, and there
could not be the personal contact between clients and bankers on which the private bank
system was based. Consequently, Iain Black has argued, for these new banks' customers,
'trust in the fidelity of the joint-stock banker relied more on the scale and richness of the
bank's architecture to compensate for the loss of personal contact.'13

But joint stock banks were not the only new companies keen to project a powerful
image by means of architecture. From 1836 to 1843 a series of insurance companies erected

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9 PD, 134 (27 Jun. 1854), c. 754.
96 PD, 139 (29 Jun. 1855), cc. 324-5. See also anon., 'Partnership with Limited Liability', p. 377; Morning
Advertiser, 3 Jul. 1855, p. 4.
139.
12 Iain S. Black, 'Spaces of Capital: Bank Office Building in the City of London, 1830-1870', Journal of
new central offices in ‘the grand Italian manner’. The Atlas in Cheapside, the Globe, the Alliance, and the Sun, were all, Kynaston argues, ‘testimony to a belief in the reassuring properties of uncompromising physical solidity.’ 1849 saw the construction of the Imperial Assurance Office at the junction of Old Broad Street and Threadneedle Street. The building was considered the equal of Tite’s recently-completed Royal Exchange. The buildings inhabited by insurance companies and banks were all consciously designed in order to evoke feelings of solidity and permanence, to try to dispel fears that the companies they housed were transitory, unstable, and untrustworthy. Railway companies were engaged in a similar task, of obtaining respectability by means of their physical presence. Their steam engines were a highly visible sign of the wealth, power, and solidity of railway enterprise, while their stations were an important means of display.

Limited liability had been easier to justify in sectors such as railways as there was no competition with private enterprise. But arguments that companies with limited liability offered unfair competition to private traders were challenged by new conceptions of the role of companies in the economy. If cheaper and better goods were made available to the public by such competition, then a change in the law should be made. Bramwell rejected the argument that creating limited liability associations would threaten the livelihood of private partnerships. If it transpired that such associations could undersell their rivals, they were preferable to private partnerships, ‘and the sooner all are on the best footing the better.’ But ‘If no one finds them preferable for any purpose, they will not be used, and the permission to form them will be nugatory.’ In this case, no one would be harmed by them, and they were therefore entirely unobjectionable. As a rule, companies were in the public interest. Edwin Wilkins Field, a company solicitor, thought it entirely unproblematic to apply the rules of political economy to companies, arguing that ‘the first cardinal rule of the free-trade school of political economy’ was ‘that the interest of the capitalist and the interest of the public are, and must always be, in the long run identical.’ If a group of ‘prudent, cautious capitalists’ wanted to form a limited company as a beneficial mode of employing their capital, it was in the public interest to allow this.

Companies became less associated with monopoly and more with competition. Limited liability was a means of opening up commerce to greater numbers than ever before by permitting people to pool their resources. These united capitals would help dissolve

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1 Kynaston, City of London, p. 139.
2 Ibid.
3 Ibid., p. 371.
4 Ibid., p. 6.
unhealthy accumulations of wealth in the economy. Reformers were particularly keen to identify individual capitalists who would be threatened by competition from companies. *Lloyd's Weekly Newspaper* highlighted the resistance of Muntz, a Birmingham iron-master, to general limited liability. Muntz admired individual enterprise, but objected to companies, because he did not welcome their competition.

Pass the Limited Liabilities Bill, and companies made up of ten pound individuals must, at least, rise to the gigantic height of Muntz; even if they do not somewhat dwarf him. Mr Muntz is now the brass Colossus of Birmingham: with limited liabilities made the law, Mr. Muntz is no bigger than Mr. Company.109

The *Morning Chronicle* described the ‘craft’ of the large capitalists, whereby the aggregate of small capitals ‘are absorbed into the mass of wealth of which the funds of great banks and capitalist magnificoes are composed.’ Limited liability would act as a centrifugal force, permitting people to use their capital for their own profit. If limited liability were made more widely available, ‘the careful operative who has saved his £100’ would be enabled to invest his money and become rich, thus breaking up the system by which only ‘the Overstones, the Glyns, the Mastermans’ and others had accumulated wealth, by ‘buying money cheap and selling it dear.’11

This new attitude on companies and competition was paralleled by a new outlook on economic growth. Hitherto, the key aim of statesmen and political economists alike had been stability, an aim threatened by economic growth. However, historians including Boyd Hilton and M. J. Daunton have identified a fundamental shift in attitudes to economic growth in the second and third quarters of the century. A constantly growing economy was coming to be seen as desirable and possible, replacing earlier visions of a static or cyclical economy influenced by the classical economists and evangelical thought.111 These changes in outlook were fundamental to the outcome of the debate on limited liability in the 1850s. An expanding economy needed a continual supply of capital, and this would be provided by general limited liability. The traditional argument had been that limited liability was inappropriate in a country such as Britain where investment capital was available in abundance, and required no artificial stimulus. But some were beginning to dispute the idea that Britain was rich enough to forsake the economic and legal structures enjoyed by her rivals. One MP did not understand how it was ‘possible for a country, in an economical point of view, to be too rich; and why a principle, which in one state of its progress would have the

effect of developing its resources, should have an opposite effect in another'. In the same vein, George Bramwell presented an argument for perpetual growth.

I ask, what is the meaning of the expression "we have abundant capital?"...Capital is the means of future earnings; the more capital the more gains by the whole body of the community; the more ways of employing capital, the more ways of making those gains; consequently, I should say we never can have too much of it. James B. Jefferys claimed that rentier investors, their numbers swollen by the railway mania of the 1840s, and disillusioned by the lack of profitable investments open to them in the early 1850s, were 'the chief instigators' of the limited liability legislation of the 1850s. His thesis has been criticised largely on the grounds that local and commercial rather than metropolitan and rentier investment was crucial to the railway boom. Merchants and manufacturers economically interested in the completion of particular local lines provided over three-fifths of investment capital, while lawyers, bankers, clergymen, clerks, and spinsters were all relatively insignificant. But such criticisms fail to take into account the character of the debate in the 1850s. This was less concerned with the actualities of joint stock investment, more with the outlines of the ideal economy. It was structured more by ideology than by responses to economic realities. That capital should be allowed to circulate freely throughout the economy without impediment was coming to be regarded by many as vital to the continued health of the nation. Metaphors used by contemporaries demonstrate that unlimited liability had come to be seen as obstructive and restrictive. Cobden complained that at present, 'capital was dammed up'; according to Ewart, 'capital was constantly struggling to break the bonds which beset it'. Bouverie stated that 'legislators ought not to place any dam across the channels in which capital was disposed to run.' Limited liability would allow capital to flow freely throughout the economy, enriching the population and having the tendency 'to create healthful enterprises'. In the same vein, The Morning Post predicted that the measure 'will be the means of freeing a vast amount of capital now lying comparatively idle and unproductive, and causing its profitable investment in undertakings

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1 Robert Collier, PD, 134 (27 Jun. 1854), c. 759.
2 Royal Commission on the Assimilation of Mercantile Laws in the U A., p. 27. For similar arguments see anon., 'Partnership with Limited Liability'; pp. 390-1.
5 PD, 119 (17 Feb. 1852), c. 683.
6 Ibid., c. 684.
7 Ibid., 139 (29 Jun. 1855), c. 329.

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likely to augment the wealth, commerce, and general prosperity of the country. General limited liability would stop the flow of capital abroad by encouraging investors to be patriotic. It would encourage Irish economic development, dragging the country out of poverty and preventing mass emigration from her shores. It would discourage excessive speculation by encouraging a more even and healthy spread of capital across the economy rather than driving it into one sector of the economy, as had happened with the railway mania of the 1840s.

Limited liability, by inducting greater numbers into the world of joint stock capitalism, would be providing possibilities for the education and improvement of groups hitherto innocent of business. Earlier views that company formation and company investment were both improper, even dangerous, spheres for women and workers to inhabit lost their force, and the emphasis changed to a stress on the possibilities for the improvement of these two groups offered by joint stock companies. Collier argued that it was desirable "that women, and other persons, not capable of actively engaging in trade should possess safe channels of investment, which were at that moment closed against them." Some middle-class women were keen to do more than invest passively in companies, and to use the company form more actively as a means of self-improvement. Bessie Rayner Parkes and Barbara Leigh Smith Bodichon, both of Radical, Unitarian stock, set up the *English Woman's Journal* in 1858 as a limited company, to promote the cause of the woman's movement, and to demonstrate what could be achieved in business by women working together. Bessie Parkes was an enthusiastic follower of John Stuart Mill, and argued that his vision of joint stock companies as emancipatory applied to women in particular. "Mr Mill alludes to the formation of joint-stock companies, and partnerships of various kinds, as becoming possible whenever people become morally capable of working together. The small means and more delicate physical powers of women may thus be utilized, when each by herself would have failed."

Perhaps more significant than this, however, was the potential seen in the extension of limited liability for healing the divisions between the classes that had been underlined by the radical politics of the 1830s and 1840s. This recent history of conflict, culminating in the 'monster petition' of 1848, led many to seek ways of bringing the classes closer together, and limited liability seemed to some to be a solution. John Stuart Mill wrote in 1848 that "the

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industrial economy which divides society absolutely into two portions, the payers of wages and the receivers of them...is neither fit for, nor capable of, indefinite duration', and, by revising the law of partnership there was the 'possibility of changing this system for one of combination without dependence, and unity of interest instead of organized hostility'.126 For Mill, 'associations of workpeople' with limited liability, by encouraging workers either to invest in the companies for which they worked, or to establish their own companies and become their own employers, were 'the most powerful means of effecting the social emancipation of the labourers through their own moral qualities.127

These ideas received significant backing in the Liberal and Radical press. Speculation was now seen not as destructive of character, but as a means of improvement, with the Morning Advertiser arguing that under the existing law, men of small means were 'shut out entirely from the advantages of speculation, and money is absorbed into few hands, and made, in many instances, a means of evil, rather than of good.'128 Limited liability would spread wealth and commercial opportunities more widely in society. Lloyd's Weekly highlighted the positive moral effects limited liability would have on working men. It removed 'the grinding pressure of the most selfish tyranny from the man of humble means; and whilst it affords to him the opportunity of honestly advancing his material prosperity, it also strengthens his independence as a citizen, and increases his self-respect as a man.'129 In his book, Money and Morals, John Lalor saw the joint stock principle as 'an instrument of immense latent capacities for elevating the condition of the whole labouring class to a higher grade, both of material comfort and of intellectual and moral cultivation, than they have yet attained.' 3 Richard Cobden agreed, bemoaning the fact that capital had 'a tendency to accumulate in great masses and in few hands', and advancing limited liability as the best means of democratising capital.13

The working classes themselves began to see opportunities in the joint stock form. Speculation had been stigmatised in working-class and radical rhetoric, by Cobbett, Hodgskin, and others, but at the same time, visions of collective activity had inspired the working classes before this, as evinced by trades unions and cooperative forms of production and exchange. Indeed, the joint stock company form had been utilised in the first communal experiment in Britain, at Orbiston in Scotland,132 and continued to be advocated by Robert

127 Ibid., p. 267.
128 Morning Advertiser, 3 Jul. 1855, p. 4.
131 PD, 134 (27 Jun. 1854), cc. 782-5.
Owen into the 1830s and 1840s. In the 1830s, enthusiasm amongst working-class leaders for joint stock enterprise grew. These were hard years for the working classes, with a trade depression meaning either unemployment or greater exploitation at work. After Parliament's rejection of the petition of 1838, the leaders of the Chartist movement looked to measures which would undermine the economic strength of the ruling classes. One such measure was the principle of 'exclusive dealing'. This principle was adopted by Robert Lowery, a member of the Chartist Convention, who helped to form the Newcastle Joint Stock Provision Company, and wrote a pamphlet to propagandise the benefits of joint stock companies to the working classes. This presented companies as a means of destroying middle-class shopkeepers. It was poor men's money that made them rich, a fact which the working classes needed to turn to their advantage: 'we have made them and we can unmake them.' By establishing their own shops, and dealing exclusively with them, the people could reduce shopkeepers to poverty. Lowery demanded the universal 'right of the working men to form joint stock companies'. For Lowery, they had 'as much right to turn shopkeepers, employers, or merchants as the upper classes have.' With their self-consciously democratic constitutions, these companies were a 'holy work of human enfranchisement', complementing the drive for an extension of political rights. If they were supported, Lowery anticipated that the joint stock system 'will change the face of society: we may become builders, cultivators, merchants, and producers for ourselves'. Lowery was not alone: the same year John Francis Bray, a printer, and treasurer of the Leeds Working Men's Association, published Labour's Wrongs and Labour's Remedy; Or, The Age of Might and the Age of Right. Like Lowery's pamphlet, this work suggested a major reconceptualisation of the joint stock company among elements of the working classes. According to Bray's plan, society would be reorganised as 'one great joint stock company, composed of an indefinite number of smaller companies, all labouring, producing, and exchanging with each other on

\[\text{Attempts at Cooperative Communities Three Pamphlets 1822-1825} \]

\[\text{Author: Arno Press, 1972.} \]

\[\text{For an account of Owen and later communit experiments, see R. G. Garnett,} \]

\[\text{"Robert Owen and the Community Experiments", in Sidney Pollard and John Salt eds),} \]

\[\text{R. Owen,} \]

\[\text{\"Works of R. Owen\"} \]

\[\text{Frans \riphet f the Po r (London: Macmillan,} \]

\[\text{1971), pp. 39-64.} \]

\[\text{1} \]

\[\text{Robert Owen,} \]

\[\text{A Development of the Principles and Plans on Which} \]

\[\text{Establish Self-Supporting Home Colonies,} \]

\[\text{reprnted in Gregory Claeys,} \]

\[\text{Selected Works of R. Owen.} \]

\[\text{4 Ss (London: William Pickering,} \]

\[\text{1993), i.}\]

\[\text{34} \]

\[\text{William Lovett,} \]

\[\text{Manifesto of the General Committee of the Industrious Classes} \]

\[\text{London: Arthur Dyson,}\]

\[\text{n.d.), p. 8.}\]

\[\text{3} \]

\[\text{Robert Lowery,} \]

\[\text{Address to the Fathers and Mothers Sons and Daughters of the Working Classes On the System of Exclusive Dealing and the Formation of Joint Stock Companies Shewing How the People May Free Themselves From Oppression} \]

\[\text{(Newcastle: Northern Liberator Office, 1839), p. 5.}\]

\[\text{3} \]

\[\text{Ibid., p. 5.}\]

\[\text{Ibid., p. 8.}\]

\[\text{Ibid., p. 7.}\]
terms of the most perfect equality.'\textsuperscript{139} And the 1840s saw Fergus O'Connor's Land Plan, also based on the joint stock principle.\textsuperscript{140}

For different reasons, working class investment also had appeal for society's elite. W. R. Greg argued in the \textit{Edinburgh Review} that it was important to the state that the working classes became capitalists. 'It is a matter of deep interest to the State; for the man who has invested a portion of his earnings in securities, to the permanence and safety of which the peace and good order of society are essential, – will be a tranquil and conservative citizen.'\textsuperscript{141} Indeed, in some ways the extension of limited liability in the 1850s prefigured the extension of the franchise in the 1860s. Responsible elements of society, who had proved their independence and character by demonstrating prudence with their earnings, deserved to be brought within the pale of the joint stock economy. The \textit{Observer}, for instance, rejected the arguments of those who predicted that general limited liability would precipitate wild and reckless investment in bubble schemes. Such reasoning was based on 'the assumption that the majority of Englishmen are either fools or knaves.' But, the paper argued, 'Prudence and caution are more especially to be expected from those who have already displayed the kindred virtues of providence and self-denial, by painfully accumulating savings out of hard-gained earnings.' These people would not 'rush heedlessly' into bad speculations.\textsuperscript{142}

Limited liability was seen as a means of improving the moral tone of joint stock constituencies. Unlimited liability, previously viewed as a guarantee that only those of good character would engage in business, was now thought to attract only the lower class of investor, reckless enough to risk his or her fortune in a single investment. Henry Morley, writing in \textit{Household Words}, claimed that the law of partnership 'perverts wholesome enterprise into a gambler's risk, and controverts numerous undertakings into speculations which would otherwise be fit for prudent men to patronise...It filters out sensible people, and lets the reckless pass through into the management of valuable projects.'\textsuperscript{143} Lloyd's \textit{Weekly} argued that the partnership laws were excluding from business 'those who would be glad to risk a certain amount of their wealth, but are prudent enough not to run the possible chance of being completely beggared.'\textsuperscript{144} Amending these laws, would 'restrict rash speculation by opening more widely the door to prudent enterprises'.\textsuperscript{145}

\textsuperscript{142} \textit{Observer}, 12 Aug. 1855, p. 4.
\textsuperscript{143} [Henry Morley], 'The Penny Saved; A Blue-Book Catechism', \textit{Household Words}, 2 (19 Oct. 1850), p. 82.
\textsuperscript{144} \textit{Lloyd's Weekly Newspaper}, 1 Jul. 1855, p. 6. See also anon., 'Partnership with Limited Liability', p. 381.
\textsuperscript{145} Ibid., p. 397.
Unlimited liability would not only reform the membership of companies, it would also reform the behaviour of creditors towards companies. Unlimited liability had been seen as a security for those who dealt with companies: if a company went bust, those who were owed money would be able, if necessary, to recover this from the personal wealth of the shareholders. But unlimited liability came to be presented as an artificial protection for creditors, which was harmful to the public interest, and indeed harmful to the creditors themselves. It encouraged improvident lending to companies: people would deal with good and bad companies alike, safe in the knowledge that they would be able to reclaim from the shareholders. Opinion spread that commercial instability was caused less by irresponsible directors, than by irresponsible lenders. The ‘dishonest’ and ‘reckless’ creditor became the focus of censure. He could lend wantonly to any company he liked, regardless of its stability, because all he had to do was scan the list of shareholders, and provided 50 or 100 wealthy men were on the list, he knew his money would be safe. If the directors did not pay, he could ‘pounce on the shareholders’. The current law therefore made it less likely that commerce would be conducted with prudence and foresight.\textsuperscript{146} Limited liability would mean creditors thought more carefully about lending money, making it harder for bad schemes to raise capital. Unlimited liability was nothing more than a protection for creditors, and it was ‘simply impossible to “protect” creditors, as such, from the consequences of their individual rashness and lack of ordinary care and caution.’\textsuperscript{147} The laws should not be framed to guarantee their security: they decided with whom they would do business, and they did not have to do business with limited companies if they did not wish to. If people gave credit to a limited partnership which failed, they did so with their eyes open, ‘and if they lose their money, it seems to us that not the law but themselves will be to blame.’\textsuperscript{148}

\textbf{What Type of Reform?}

Thus, governments in the early 1850s were faced with twin pressures, both from those who felt the 1844 Joint Stock Companies Act facilitated fraud by removing all state discretion over incorporation, and from those who felt that the Act, in withholding the privilege of limited liability, did not go far enough. The initiative was seized by a member of the latter camp, Robert Slaney, a backbench Liberal MP who had chaired committees on education and the health of the working classes. He succeeded in securing the appointment of successive

\textsuperscript{147} \textit{Morning Chronicle}, 25 Jul. 1855, p. 4.
committees on middle- and working-class savings and on partnership law in 1850 and 1851, both of which he chaired. Following the reports of these committees, Slaney's Industrial and Provident Societies Bill, bringing industrial associations of workers under the law of friendly societies, thus exempting them from unlimited liability and allowing them to settle disputes among partners without recourse to Chancery, became law. But he further aimed to extend access to limited liability to all. In February 1852, he and William Ewart called for a Commission to consider measures to remove legal obstacles to investment and industry. The Whig Government adopted a defensive, cautious line. President of the Board of Trade Henry Labouchere said that while he was opposed to general limited liability, the Government was anxious to allow careful consideration of the subject, bearing in mind 'the enormous amount of capital existing in this country, and the great changes which had of late years taken place in the commercial relations of the whole world'. Consequently, Labouchere signalled his intention to establish a Royal Commission on the partnership laws, but before he could do this, Russell's ministry fell, and the short-lived Conservative Administration which followed, with Joseph Henley as President of the Board of Trade, seemed disinclined to involve itself in the subject.

The formation of the Aberdeen coalition in December 1852 led to the appointment of the third President of the Board of Trade in less than a year. Edward Cardwell, who had been Financial Secretary to the Treasury in the later stages of Peel's second Ministry, and had remained loyal to his leader, took a narrower view than his predecessors on the circumstances which justified the grant of Royal Charters. Where Henley had been liberal, Cardwell was cautious. In the period when Henley held office, the Board granted 18 charters, and refused only 12. Cardwell, however, all but suspended the grant of charters, granting only three out of 27. Cardwell was also more determined than his predecessor to clarify the state of the law regarding joint stock companies, for the benefit of the public. To this end, he distributed a memorandum setting out his views to the Cabinet in January 1853. He believed resolution of the question of limited liability should be a priority, for Labouchere's promise of an inquiry into the law of partnership, and the Conservative Government's subsequent inaction had created 'a vague expectation out of doors' that some action was to be taken, and the time was right for the Government to make a public declaration of its policy. The great

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149 Select Committee on Investments for the Savings of the Middle and Working Classes, pp. 1850 (508) XIX.169; Select Committee on the Law of Partnership.
151 PD, 119 (17 Feb. 1852), c. 674.
152 Calculated from *Returns of All Applications to the Board of Trade for Grants of Charters With Limited Liability*.
153 Ibid.
number of applications with which Cardwell was faced at the Board of Trade made a decision on limited liability all the more desirable. Henley's liberality had encouraged more applications, but if the Board continued to 'virtually abrogate the law' by granting Charters too freely, private enterprise would be discouraged. Cardwell thought 'the extraordinary progress of trade of late years' was evidence that even enterprises requiring heavy investment could be carried on by private partnerships without special privileges. To create great numbers of limited companies would be to subvert fundamental economic and moral rules. Unlimited liability was 'founded on natural justice', for in 'the case of insolvency, where somebody must lose, who should bear the loss but those who have enjoyed the chances of gain?'

The helplessness of shareholders in the face of fraudulent managers was no argument for limited liability, for it was the responsibility of shareholders to elect honest managers, and if innocent shareholders were protected, then innocent creditors would be left more vulnerable. Cardwell wanted to stress that he was not an enemy of joint stock companies: 'I rejoice in the repeal of the Bubble Act, and in the permission to associate in joint stock.' But he did not see 'why the law should give to such associations a privilege denied to private firms. I think the whole history of joint-stock companies would lead us to an opposite conclusion.' Cardwell's advice was unambiguous: that 'the present law should be steadily maintained both in spirit and in practice.'

Cardwell followed this memorandum with a letter to Lord Aberdeen in February. He continued to urge for the Government to take a definite line on limited liability, and for the matter to be discussed by the Cabinet (Cardwell was not a member), as he thought it 'essential that the Cabinet should be decided in the views which they wish the members of the Government to express upon the subject of the Law of Partnership.' Cardwell acknowledged that the Attorney General, Sir Alexander Cockburn, was opposed to his views, but countered this by attaching a note from Henry Goulburn supporting the President of the Board of Trade's stance. Cardwell indicated that he would be uncomfortable promoting a measure of general limited liability, and, while he was happy to defend the general spirit of the present law, asked that if the Government decided on such a measure, that it be placed, 'as a question of Law Reform', in the hands of the Attorney General. Cabinet discussion did not result in the emergence of a clear Government line, however, so Aberdeen wrote back to Cardwell with the usual solution in such situations: a Royal Commission.

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55 Ibid.
56 Ibid., p. 5.
57 Ibid., p. 6.
58 Ibid., p. 8.
59 Ibid.
60 Ibid., p. 5.
announced the decision in the Commons two days later.\textsuperscript{163} Although Cardwell had wanted the Government to dismiss the issue without resorting to public inquiry, it seems that some campaigners for limited liability were also disappointed with the Government's action.\textsuperscript{164} Indeed, it is more accurate to see the Royal Commission as a stalling device allowing the Government to defer judgement on the question than as evidence that Aberdeen was bowing to demands for a change in the law. It is nonetheless significant that the Government chose to respond, however ambiguously, to pressure for greater corporate privileges, rather than to pressure for a more rigorous company law.

The Report of the Commissioners, delivered in 1854, gave little encouragement to supporters of general limited liability. The Commission conducted a thorough survey of commercial opinion, distributing detailed questionnaires to merchants, manufacturers, chambers of commerce, bankers, lawyers, academics, and MPs. Opinions from 74 individuals and organisations were received from within Britain, giving a reasonable snapshot of opinion in the commercial community.\textsuperscript{65} 38 wanted to allow limited liability to joint stock companies as a right, while 36 wanted to retain some form of state discretion over the grant of limited liability to companies.\textsuperscript{166} Bankers were the group most hostile to limited liability, with just two out of 15 supporting the removal of state discretion of the principle. Merchants and manufacturers were more evenly split on the question, with 18 in favour of the existing law, and 17 advocating automatic limitation of liability for joint stock companies. Nine out of the 14 representatives of the legal profession advocated greater access to limited liability for companies, while the ten other witnesses, comprised of academics, MPs, and bankruptcy commissioners, backed limited liability. Taken geographically, the biggest base of support for limited liability was the metropolis, with 20 London-based respondents arguing for automatic limited liability for companies, and 13 against. In the rest of England, there was an even split, ten for and ten against. Scottish respondents were firmly opposed to the removal of state discretion by eleven to four, while four out of six Irish respondents backed limited liability for companies.\textsuperscript{67} These bare figures conceal the fact that the pro-limited liability stance was

\begin{itemize}
\item \textsuperscript{1}PD. 124 (21 Feb. 1853, cc. 348-9.
\item \textsuperscript{2}Field,\textit{ Observations of a Solicitor}, p. 8.
\item The method of gathering evidence adopted by the Commission meant that the survey was probably reasonably representative of opinion. 76 questionnaires were sent out to particular individuals, but a further 60 were sent out to 20 of the largest chambers of commerce in the U.K. for distribution to nominees of the chambers.
\item These figures derive from witnesses' opinions on the desirability of extending automatic limitation of liability to joint stock companies, not partnerships. Some of the 36 were advocates of an extension of limited liability to partnerships, but the focus here is their views on companies. R. A. Bryer's figures are 43 to 31, but he divides these according to support for or opposition to an extension of limited liability to either partnerships or companies. R. A. Bryer, 'The Mercantile Laws Commission of 1854 and the Political Economy of Limited Liability',\textit{ Economic History Review,}, 50 (1997), pp. 37-56.
\item For detailed restatements of traditional opposition to general limited liability, see the evidence of James Andrew Anderson, James Freshfield, John Kinnear, Lawrence Robertson, James Clark, William Entwisle, and
\end{itemize}
far from a monolithic one: those who wanted a change in the law did not all agree on what
the new law should look like. Many supported not the unconditional adoption of limited
liability, but the much less sweeping form of *en commandite*, popular in France, whereby the
liability of *non-directing* members only was limited. Several qualified their support of limited
liability by stipulating that liability should continue for a fixed period after the transfer of
shares, that liability should be set at double or treble the value of the shares, or that the past
six years’ profits should be liable, along with the capital, for the debts of the company.\(^{168}\)

It is not surprising that the division of opinion in the country was reflected within the
body of the Commission itself. Five of the eight Commissioners put their names to the
Report, which recommended against the adoption of general limited liability, but three
deprecated to do so, each of whom registered separate opinions on the question. Two of these,
George Bramwell and Kirkman Daniel Hodgson, supported limited liability, while the third,
James Anderson, advocated special loans at rates of interest varying with the profits of the
company, but not the extension of limited liability.\(^{169}\) The Report noted that the
Commissioners had been ‘much embarrassed by the great contrariety of opinion entertained
by those who have favoured them with answers to their questions. Gentlemen of great
experience and talent have arrived at conclusions diametrically opposite’.\(^{170}\) They continued
that the question which above all they sought to answer, was ‘whether the proposed alteration
of the law would operate beneficially on the general trading interests of the country?’ They
had ‘arrived at the conclusion that it would not.’\(^{171}\) The Commissioners restated the
traditional line, that limited liability was only required for large scale enterprises which could
not be funded by private partnerships, and for local improvements which did not attract the
capital of wealthy investors. These exceptions should continue to be granted limited liability
by a public authority on a case-by-case basis.

The Aberdeen Government had passed the question of limited liability on to a
Commission to avoid having to reach a decision itself. The resulting evidence collected and
the opinions expressed by the Commissioners hardly pointed to an obvious course of action.
In light of the division of opinion, and the majority opinion of the Commissioners, the only
valid course open to the Government seemed to be to do nothing. This is what the

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William Hawes. *Royal Commission on the Assimilation of Mercantile Laws in the UK*, pp. 61-3, 67-70, 86-90,
102-5, 105-9, 109-12, 191-4.
\(^{168}\) See, for example, the opinions of James Perry, William Thomson, and John Brooke, ibid., pp. 67, 76, 159.
For comment on the differences among those who supported an extension of limited liability, see Cardwell, PD,
134 (27 Jun. 1854), c. 769.
\(^{169}\) Most historians, seeing that five Commissioners signed the report, assume that the other three
Commissioners supported limited liability, but it should be stressed that only two adopted this position. For the
error see for example, Cottrell, *Industrial Finance*, p. 51. Hilton thinks the split was 5-4. *Age of Atonement*, p.
257.
\(^{170}\) *Royal Commission on the Assimilation of Mercantile Laws in the UK*, p. 5.
\(^{171}\) Ibid.
Government appeared to want to do, but opinion in the Commons meant this was impossible. All three MPs who had responded to the Commission’s questionnaire had supported limited liability, and it became clear that despite the deep division of opinion in the country, the principle had majority backing in the Commons. Soon after the publication of the Commission’s Report, the backbench Liberal MP Robert Collier moved a resolution in the Commons that the law of partnership was ‘unsatisfactory’ and should be modified to enable people to contribute capital to businesses without incurring unlimited liability. Collier’s resolution received support from most of the subsequent speakers in the debate, not only from fellow Liberals such as Viscount Goderich, Richard Cobden, Edward Leveson-Gower, and Thomson Hankey, but also from Conservatives Richard Malins and Hugh Cairns. Cardwell tried to stall, conceding that the law as it stood was far from perfect, but opposing making decisions on limited liability before the report could be digested. Two of his colleagues, Cockburn and Palmerston, the Home Secretary, also attempted to induce Collier to drop his resolution, as they did not want to be bound by an abstract principle. But it was clear that a difference of opinion existed inside the Cabinet, for both Palmerston and particularly Cockburn undermined Cardwell by expressing much sympathy with Collier’s aim of making limited liability more available. Collier was happy to follow the Government’s instructions, the debate already having indicated much support for an extension of limited liability, but the House ‘by loud cries...expressed its wish that the Motion should not be withdrawn’, and it was duly agreed to.

The debate had suggested a Cabinet split on the issue, and this was indeed the case. Cardwell’s scepticism on limited liability was echoed by fellow Peelites including Gladstone, Chancellor of the Exchequer, and also by Russell, at this time Lord President. In addition to Palmerston and Cockburn, however, limited liability also had the support of Lord Granville and the Duke of Argyll. Hilton has suggested that the crucial event breaking this deadlock was the fall of Aberdeen’s Ministry in January 1855 and the formation of a new Ministry soon purged of Peelites, headed by Palmerston. In fact, Aberdeen’s Government had acceded to the demand for limited liability before it fell, announcing at the end of

72 Cottrell prematurely promotes Collier, claiming that he was Attorney-General in 1854; he obtained this post in 1868.
73 PD, 134 (27 Jun. 1854), c. 754.
74 Though Palmerston pointed out that because it had been generally understood that Collier had only intended to elicit the opinion of individual members on the subject rather than pressing a division, many MPs had not attended. PD, 134 (27 Jun. 1854), c. 798.
December 1854 that it would introduce a Limited Liability Bill. This was lost with the wreckage of the Ministry the following month, but it signalled Aberdeen's acceptance of the principle of limited liability.

The reasons for this reluctant adoption of general limited liability, and the Palmerston Government's subsequent enthusiastic embrace of the cause, lie partly in the ideological shifts outlined above. But these factors alone were not enough to prompt Government action. The political context was vital. That the Government should push for limited liability during the Crimean War has attracted some surprise. In fact, the Government's interest in limited liability was partly caused by the war. The Government's widely perceived mismanagement of the war in late 1854 and early 1855 led to profound criticism not just of the Aberdeen Ministry, but of the entire system of government. While claims that the war signalled 'the death-blow of the Aristocracy' were obviously hyperbolic, the movement for administrative reform which it engendered was of huge importance, not least for the popular call for government to be carried out on sound 'business principles'. The superiority of the private sector over the public in making decisions and allocating resources was widely proclaimed, with John Lewis Ricardo holding, 'There is not a clerk in Manchester or the City of London that would not have known how to supply the Army with what it wanted when he had unlimited capital at his command.' Such views fed into the debate on limited liability, and the traditional governmental role of determining which companies deserved privileges became less popular than ever. Parliamentary incorporation, associated since the 1820s with corruption, had remained controversial in the 1840s with the huge number of railway incorporations, and was targeted by reformers in the 1850s. But it was incorporation by the Board of Trade that generated the most anger. The Daily News felt that it was wrong for the grant of corporate privileges to be 'dependent on the caprice of Government officials.' Edwin Field, a company solicitor, thought it unfair that a secret inquisition such as the Board should have such power over parties associating for trade, and condemned what he called 'the Paternal Theory of Commercial Legislation'. It was widely believed that the Board of Trade did not consider each case on its merits. John Duncan testified before the 1851 Select Committee that after 1846, schemes for Irish development always met with approval, while

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78 Hinton, Ig of Iron Mont, p. 258.
79 For a neat 're react' to this announcement, see the Times, 23 Dec. 1854, p. 142.
81 Ibid., p. 92.
82 ibid.
84 Daily News, 10 Jul 1855, p. 4. See also Morning Herald, 10 Jul. 1855, p. 4.
85 Field. Observations of a Solicitor, pp. iii, 84.
identical schemes in Scotland and England were rejected. Robert Lamont, a Liverpool
shipowner whose applications for a charter to the Board of Trade had twice been refused, told
a special meeting of the Liverpool Chamber of Commerce, that he had 'no hesitation in
saying that the Board was guided by no principles whatsoever in granting charters.'\textsuperscript{186} A
colleague told the 1854 Royal Commission that he did not support the discretion of
government agencies such as the Board of Trade. ‘They are constantly influenced by pressure
more than justice, and “my lords” often do things for one reason or motive, and invent
another afterwards as an excuse (which was not the reason), when they are obliged to give
one.’ He thought that the ‘Board of Trade wants reforming, as well as the law of
partnership.’\textsuperscript{187}

Crucially, even those who supported the principle of state sanction had doubts that the
Board was competent to exercise this function. Robert Slater, one of the Commissioners of
1854, thought that a new public board, a special tribunal composed of legal and mercantile
members, would be a more suitable authority to decide on the grant of limited liability. The
Board of Trade was a political body not suited to making these legal decisions, and to relieve
it of its duties in this area would be ‘a great relief to that board, as well as an advantage to the
public’.\textsuperscript{188} It seemed that this was so, for, just as in 1844, the Board itself expressed unease
about its role. Cardwell opposed automatic registration, yet referred in Parliament to ‘the
invidious power vested in him’ of granting charters, and the ongoing Royal Commission on
the subject gave him the excuse to all but suspend this activity.\textsuperscript{189} In his Cabinet
memorandum of January 1853, he revealingly confessed, ‘I heartily wish that the law was
self-acting, and that the power of interposition did not belong to the Board of Trade.’\textsuperscript{190}

Such was the dilemma facing those who opposed automatic incorporation, yet who
also thought the government an objectionable agency to filter good enterprises from bad. No
such problems troubled Palmerston’s Ministry. John Bright subsequently claimed that limited
liability was driven through Parliament because ‘the Government was very anxious to say at
the end of the Session that something had been done besides voting money for the war.’\textsuperscript{191}
Indeed, it seized the opportunity to abandon a long troublesome duty with enthusiasm.
Bouverie, Cardwell’s successor at the Board of Trade, announced that the market rather than
the state would henceforth regulate the corporate economy. ‘The true test as to whether these

\textsuperscript{186} Daphne Glick, ‘The Movement for Partnership Law Reform 1830-1907’, PhD thesis (University of
\textsuperscript{187} C. Robertson, \textit{Royal Commission on the Assimilation of Mercantile Laws in the UK}, p. 219. See also the
opinions of Jeremiah Burroughs, a London merchant. ibid., p. 138.
\textsuperscript{188} Ibid., p. 49.
\textsuperscript{189} PD, 134 (27 Jun. 1854), c. 772.
\textsuperscript{190} Cardwell, ‘Limited Liability’, p. 9.
\textsuperscript{191} Cited in Arthur Redford, \textit{Manchester Merchants and Foreign Trade 1794-1858} (Manchester: Manchester

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undertakings were of public advantage was their success or non-success.\textsuperscript{192} If they fulfilled a public need, they would thrive, if they did not serve the public, they would fail. The state no longer needed to protect the public from these companies: and had no other role than to set up a mechanism automatically granting limited liability, then leave well alone. Bouverie did not think it was his duty as a legislator to prevent imprudence in commercial undertakings. The real preventive against imprudence was the loss which it entailed on the imprudent man; no security against it was so great as the punishment which the imprudent man brought on himself by committing it.\textsuperscript{193}

In June 1855, Palmerston’s Government presented two Bills to Parliament by which it would abdicate all responsibility for deciding which enterprises should receive limited liability. Despite the prominence of several free traders on the side of unlimited liability, such as Cardwell, McCulloch, and Overstone, the Government and its supporters placed limited liability in the context of the free trade reforms of the past thirty years, presenting it as another step on the path of liberalism and retrenchment. Viscount Goderich told the House that limited liability was ‘consistent with the whole course of their recent commercial legislation.’\textsuperscript{4} Palmerston was adamant that it was a simple ‘question of free trade against monopoly.’\textsuperscript{9} Collier thought that general limited liability was an endorsement of the principle of freedom of contract, which he regarded ‘as a corollary to freedom of trade and freedom of navigation.’\textsuperscript{6} The rules of political economy were now being applied to the corporate economy entirely unproblematically, as companies had become ‘privatised’ in the discourse of the 1850s. Whereas they had been seen as the creations of the state, permitted to exist solely to perform some narrow, specified function sanctioned by the state, they were now perceived as entirely separate from the state and entitled to all corporate characteristics as rights. For the state to deny these rights was an unwarranted restriction of trade. Bramwell opined that ‘If ever there was a rule established by reason, authority, and experience, it is that the interest of a community is best consulted by leaving to its members, as far as possible, the unrestricted and unfettered exercise of their own talents and industry.’\textsuperscript{197} This included allowing businessmen to trade with limited liability without restriction.

If the Government was courting popularity by implementing general limited liability, the strategy seemed to work. The Times supported the principles of the Bills: seemingly a significant \textit{volte face}, for the newspaper had hitherto been opposed to making limited liability

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\textsuperscript{1} Bouverie, PD, 139 (29 Jun. 1855), c. 325.
\textsuperscript{9} Ibid., c. 327.
\textsuperscript{6} Ibid., 134 (27 Jun. 1854), c. 760.
\textsuperscript{4} Ibid., 139 (26 Jul. 1855), e. 1390. His assertion was met with cries of ‘No, no!’
\textsuperscript{9} Ibid., (29 Jun. 1855), c. 329.
\textsuperscript{6} Royal Commission on the Assimilation of Mercantile Laws in the U.K. p. 23.
more available. Historians of company law have, however, failed to indicate the reason for this change in policy. Rather than symptomatic of an irresistible tide in favour of reform, the shift in editorial line has much more to do with the addition of Robert Lowe to the paper's leader-writing team in April 1851. In the 1850s he was a prolific contributor, sometimes writing two articles in the same day.198 Joint Secretary at the Board of Control in Aberdeen's Government, then from August 1855, Vice President of the Board of Trade, he soon gained a reputation for using his position at The Times to boost his career. Lord John Russell complained to his Cabinet colleague Earl Granville that if anyone questioned Lowe's proposals, even in private, he could expect to find himself 'gibbeted in the next day's Times.'199 Through 1855 and 1856 Lowe produced a series of leaders supporting the principle of general limited liability and abusing anyone who opposed him. However, the rest of the London dailies, regardless of their politics, were equally sympathetic to limited liability.200 Support was not confined to the capital. Key provincial papers such as the Manchester Guardian were also behind the Bills, and it was claimed in the Lords that no paper in the country except the Leeds Mercury would publish an article against general limited liability.201

This uniformity of opinion in the press made it possible for the supporters of a change in the law to claim that limited liability was demanded by the public, and that only a handful of self-interested 'large capitalists' opposed reform. The language used in the Commons and in the press in support of the Bills was in some instances theatrically democratic, and very hostile to 'large capitalists'. Palmerston (hardly a keen democrat) portrayed it as a contest 'between the few and the many'.202 Indeed, the opponents of limited liability were outnumbered in Parliament, losing the key vote on the Limited Liability Bill in the Commons 121-40, and in the Lords 38-14 and 28-11, despite the Bill arriving in the upper house nine days after the deadline imposed by the standing orders.203 But the Partnership Bill, which would have extended limited liability to small partnerships, failed to progress beyond the Commons, its failure seeming to highlight the priorities of the legislature, and to expose the radical and democratic rhetoric surrounding reform as little more than a debating tool to isolate and discredit opponents of reform as reactionaries and enemies of the people.

200 For Liberal opinion, Morning Advertiser, 28 Jun. 1855, p. 4; Daily News, 10 Jul. 1855, p. 4; Morning Chronicle, 27 Jul. 1855, p. 4; Lloyd's Weekly Newspaper, 5 Aug. 1855, p. 1; Observer, 12 Aug. 1855, p. 4. For Conservative opinion, Morning Herald, 10 Jul. 1855, p. 4; Morning Post, 27 Jul. 1855, p. 4. The Standard was the exception in expressing coolness towards reform: 27 Jul. 1855, p. 2.
201 Lord Stanley of Alderley, PD, 139 (7 Aug. 1855), c. 1896.
202 Ibid., (26 Jul. 1855), c. 1389.
203 The pressure placed by the government on the Lords to pass the bill caused much ill feeling. See for example, the comments of Lord Lyttelton and Earl Grey, PD, 139 (7 Aug. 1855), cc. 1901, 1903.

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Indeed, the type of limited liability imposed by the Act of 1855, still more by Lowe’s Act the following year, was of a very different nature to that proposed by many reformers over the previous few years. By far the most popular model of limited liability was the French system of *en commandite*. This could be sold as a halfway house between two systems, combining the best of both. Capital would be ready available for enterprises established under these rules given the inducement of limited responsibility held out to passive investors, while the potential for lax management or outright fraud would be greatly circumscribed by the unlimited responsibility of directors. If a measure of limited liability were to be adopted, it was entirely plausible that a country attached for very long to the principles of unlimited responsibility and commercial integrity would choose this system, rather than any arrangement which gave directors all the privileges of passive investors. But despite all the ink that was spilt and the breath expended supporting *en commandite* partnerships in the early 1850s, Britain ended up with a system of undifferentiated limited liability for all company members. Directors were to be able to enjoy limited liability alongside their shareholders. Moreover, safeguards to lessen the chances of fraud, insisted upon by the Lords in 1855, were repealed by Lowe’s Act of 1856. The Manchester Chamber of Commerce petitioned the Lords against this measure, pointing out that much of the evidence before the Royal Commission favourable to limited liability was based on observation or experience of the *en commandite* system. But the Bill became law.

Opponents of limited liability thought the public agenda had been hijacked by the press and Parliament. Parliament was not responding to public demand for reform, for, outside the press, there was none. Lord Monteagle, a Whig, asked, ‘What petitions had been presented to their Lordships’ House in favour of this Bill? He knew of none; nor did he know of any great commercial authority which had recommended the measure now under consideration’. Lord Overstone denied that newspapers reflected public opinion, commenting privately, ‘It is perfectly easy for two or three writers, having connection with the Press, to get up a very fallacious appearance of public opinion.’ Merchants and manufacturers looked for other targets. For Hawes, a London merchant, ignorant and greedy lawyers were behind the measure. Lawyers were ‘idle capitalist[s]’ who wanted to realise the same profit from their capital, without commercial knowledge, and free of risk, as men of business. Potter wondered at the General Meeting of the Manchester Chamber of Commerce in February 1856 why the Government had passed the Limited Liability Bill ‘when there had been no solicitation from the country.’ In his view, ‘the whole thing was in

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206 PD, 139 (9 Aug. 1855), c. 2042.
the hands of lawyers and certain capitalists in London. Indeed, the measures of 1855-56 contributed to the feeling among employers that their interests were being neglected in Parliament, which led in 1860 to the establishment of the Associated Chambers of Commerce to try to influence commercial legislation.

Opponents of limited liability, tarred as self-interested capitalists, were understandably keen to identify the interests others had in supporting the measure. But there was some truth in their accusations. The press had a vested interest in legislation which would increase the number of companies formed, for this meant more advertising revenue. During the railway mania of the 1840s, it was claimed by a journalist that advertisements of public companies were lucrative to newspapers, and that 'it would not be unfair to estimate the receipts of the leading daily journals at from 12,000l. to 14,000l. per week from this source.' The press had placed great pressure on the Government to secure the passage of limited liability, taunting the ministry that the session was in danger of drawing to a close without any real measure of reform having been passed. This pressure was clearly a contributory factor to the Government's decision to force the Bill through Parliament. As Bright noted, the determination of the Government was vital to the success of the Bill, but limited liability could not have been pushed through so successfully without the goodwill of the legislature. This was secured partly because of the new dominant ideology which painted companies as in the public interest, and which marginalized the role of the state in protecting the public against these companies. However, it was also a result of the economic interests of the increasing number of MPs who were financially interested in the joint stock economy. In 1845, parliamentary returns of all subscribers to the 209 railway projects before Parliament that session revealed that at least 104 MPs had subscribed sums ranging from £200 to £165,000, to a total value of £1,317,834. By the end of 1845, this number had grown to

1 Hawes, Unlimited and Limited Liability, p. 30.
2 Glick, 'Partnership Law Reform', p. 258.
4 [David Morier Evans], The City, Or, the Physiology of London Business (London: Baily Brothers, 1845) p. 200.
5 Morning Chronicle, 26 Jun. 1855, p. 4; Daily News, 27 Jul. 1855, p. 4.
6 Calculated from Alphabetical List of the Names, Descriptions and Places of Abode of all Persons Subscribing to the Amount of £2,000 and Upwards to any Railway Subscription Contract Deposited in the Private Bill Office During the Present Session of Parliament, PP, 1845 (317) XL.1; Alphabetical List of the Names, Descriptions and Places of Abode of all Persons Subscribing For Any Sum Less Than £2,000 to any Railway Subscription Contract Deposited in the Private Bill Office During the Present Session of Parliament, PP, 1845 (625) XL.153. The total of 104 is almost certainly an underestimate: some Members of Parliament on these lists are not marked as such, so to identify Members, it was necessary to compile a list of Members for the 1845 Session, and to check every name against the lists of shareholders in the Returns. Where names appeared on both lists, details of address, title, etc. were checked against information in Stenton, and only definite identifications of Members have been included.
Twenty years later, 216 MPs were company directors. As Paul Johnson has noted, 'Parliamentarians quite literally “bought in” to the methods and morals of the stock exchange.'

Corporate values were also being absorbed by the civil service: by 1852, a total of 121 permanent public officers were on company boards, including four at the colonial office, eleven at the Inland Revenue and Customs, eight at the post office, and no less than 34 holders of Scottish offices. The same thing was happening on the level of local government, if Whitmarsh was to be believed. He told the Board of Trade that the only attempt made to recover a penalty under the Joint Stock Companies Act had been ‘defeated by the magistrates, who themselves threw every difficulty in the way, and it might be expected in other cases, as there are few magistrates who are not in some way connected with the Direction of a public company.’ Landed and town elites were drawn en masse into the world of share ownership and company direction by the spread of the railways in the 1830s and 1840s. According to the Railway Chronicle, even outlandish schemes managed to attract the names of men ‘with commissions in the army; gentry with triple address; men of town and country houses; Members of Parliament; Peers; K.C.B.s, and lieutenants of counties.’ According to Kostal, hundreds of English gentlemen ‘prostituted’ their names to railway schemes with abandon: some accepted directorships to more than thirty companies. Geoffrey Channon has recently argued that historians have hitherto underestimated the extent of patrician involvement in the direction of railway companies. This involvement was significant as early as the 1830s, and by 1850, 24 peers, 25 sons of peers, and 24 knights and baronets, mostly landowners, held railway directorships.

Conclusions

The 1840s and 1850s saw the laws regulating joint stock enterprise subjected to a radical overhaul. But this cannot be presented as the culmination of a coherent ‘movement’ for...
reform. The 1844 Act had its roots in the insurance frauds of the late 1830s and early 1840s, and was an attempt to provide for the security of the public by forcing companies to register their details with a newly created government office. The aim was regulation, though this was regulation by the public rather than the state, for the public was to be given access to all the information they would need to make an informed decision on whom they would trust. The traditional state role of determining which enterprises were to receive privileges was rolled back, so that only the right of granting or denying limited liability was retained. There was nothing inevitable about the state’s abandonment of this last power just over ten years later, for in the light of the railway mania, the insurance frauds of the late 1840s, and the boom in company formation in the early 1850s, much pressure was placed on the Government to move in the opposite direction and tighten up its regulatory powers rather than renounce them entirely.

That the Government did not bow to this pressure was due in part to the transformation in attitudes to joint stock enterprise taking hold in the 1840s and 1850s. This process was characterised by a series of reversals of established thinking. Limited liability had been resisted on the grounds that Britain was different (and superior) to her rivals; now it was urged because it was considered that she was the same as her rivals. Formerly associated with visionary and spurious ‘hot air’ schemes, companies had come to be associated with genuine technological progress: the railway, the steamship, and the telegraph. Companies had been linked with monopoly; now they came to be seen as agents for breaking down monopoly. It had been considered dangerous for the masses to invest in companies; now wider investment was to be encouraged. It used to be thought that limited liability encouraged gamblers to invest in companies; now it was argued that limited liability would ensure a better class of investor. Unlimited liability had been considered necessary to protect creditors; now limited liability was seen as necessary to curb reckless creditors. Unlimited liability had been thought to be based on natural justice; it was now considered to be a violation of natural justice.

These ideological shifts had a significant influence on government policy. In choosing to widen rather than restrict access to corporate privileges, the Government indicated that it was convinced of the positive effects limited liability reform would have on Britain’s economy and society. However, combined with these new ways of conceptualising companies were baser economic imperatives. The fortunes of political and social elites were, from the mid-1840s, bound up closer than ever before with the joint stock economy. To allow joint stock companies free rein did not seem dangerous to a Commons in which over a quarter of MPs had economic interests in such companies. The new ideology and the new economic interests combined to provide the means for the Government, in the name of the
now totemic cause of free trade, to shed its responsibility for incorporation which it had long found onerous.

But it was uncertain whether the reforms would take root. Substantial numbers had denied that the cause of commercial law reform was synonymous with progress, and had claimed that the move towards general limited liability was ‘a march of retrogression.’\textsuperscript{223} They had predicted calamity for the nation’s commerce should the measure be enacted. If they were proved right, they would be sure to take advantage.

\textsuperscript{223} Archibald Hastie, PD. 139 (29 Jun. 1855). c. 357.
Limited Liability on Trial

On Saturday 5 May 1866, theatregoers at the Prince of Wales, Tottenham, enjoyed the first performance of *A Hundred Thousand Pounds*, a comedy by Henry James Byron. The principal theme of the play was the illusory nature of wealth: at several points in the play, money which people assume to exist, suddenly vanishes, creating all manner of chaos. In act one, Pennythorne, a livery stable-keeper, is told that he has inherited the eponymous hundred thousand pounds. He makes ambitious plans for the money, but his joy is interrupted when it is revealed that there has been a case of mistaken identity: it is actually Gerald Goodwin, a poor man of good family, who has inherited the money from an uncle in India. Goodwin falls in with Major Blackshaw, a company promoter, who encourages him to set up in fine style on the strength of his imminent fortune. Goodwin runs up extensive bills with tailors and wine merchants, but his uncle returns from India to refute the rumours of his death: he was merely ill with jungle fever. Goodwin’s presumed wealth therefore evaporates before his creditors’ eyes, and he is faced with massive debts. Alice Barlow, the woman Goodwin loved, but cruelly threw over when he came into his ‘inheritance’, and who has been left money by her father, forgives his behaviour and offers to pay his debts. But her uncle Joe, who had control of her money in trust, reveals to her that he has lost it, along with his own savings, in Blackshaw’s British-Australasian Joint Stock Discount and General Loan Company, which has just gone bust. Pennythorne does not know this, and, having also lost all of his money in the company, develops an interest in marrying Alice, as the solution to his financial troubles. Joe, ignorant of Pennythorne’s losses, and believing his wealth will solve his financial problems, is on the verge of forcing Alice to accept her suitor’s advances, but then the truth of each man’s finances is revealed to the other. Pennythorne, reduced from eligible bachelor to bankrupt, is arrested and taken away, and the play ends with Goodwin’s uncle initiating a reconciliation with Goodwin, who sees the error of his earlier profligacy. Alice takes her former lover back, and extols the virtues of modest living: ‘Gerald, we shall be happy if we are not too rich. We have seen what money does, so let us be contented with a little’.1

Many in the audience may have had cause to reflect on the theme of vanished wealth the following Thursday, when Overend and Gurney, the country’s leading discount company, and ‘one of the landmarks of the City’;2 suspended payments, provoking the following day a

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2 *The Times*, 11 May 1866. p. 11.
panic 'which broke like a thunderclap over the City'. The business had been converted to a limited liability company in 1865, but its heavy liabilities had been deliberately concealed from the investing public by the company's new directors. Confidence in all financial institutions evaporated: 'The doors of the most respectable Banking-Houses were besieged...The excitement on all sides was such as has not been witnessed since the great crisis of 1825'. Walter Bagehot, writing in the *Economist*, doubted 'if there ever was a collapse of credit more diffused and more complete.' At midday the panic was at its height. 'Lombard Street was actually blocked up by the crowds of respectable persons who thronged the doors of the banks and other establishments.' The Bank Charter Act was suspended. Several banks failed, and many new promotions followed them. Within three months, over two hundred companies had collapsed.

As a result of the crisis, the workings of the corporate economy were subjected to public scrutiny. A Select Committee was formed to investigate the Companies Acts, and the law was amended, but the principles of company law as established between 1844 and 1862 were not diluted; indeed in some respects the Act of 1867 went further than its predecessors had done. Hunt rightly argues that this was a crucial moment in the history of company law, but he does so for the wrong reasons. He sees the reaction to 1866 as the final step on the road to enlightenment by the British: 'After more than a century of struggle against deeply rooted prejudice and widespread misconception, and having weathered the storm of the sixties, freedom of incorporation was a definitively accomplished fact.' In reality, there was nothing inevitable about the response to 1866. Although the basis of company law received backing in Parliament and in sections of the press, there was far from universal support among the wider population. Plenty of evidence can be found that public suspicion of joint stock enterprise was heightened by the events of 1866, and that this mistrust was far from fully dissipated in the aftermath of the crisis. The interesting point is that despite this widespread hostility the regime established between 1844 and 1862 successfully resisted change. This was the moment, therefore, when the ideology underpinning this regime was demonstrated to have become unassailable.

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1 R. H. Patterson, "The Panic in the City", *Blackwood's Edinburgh Magazine*, 100 (Jul. 1866), p. 79.
2 *The Times*, 12 May 1866, p. 8.
4 Patterson, "Panic", p. 83.
6 Ibid., p. 157.
The Panic and the Reaction in Parliament

The Acts of 1855-6 had excluded banking and insurance companies, but limited liability was extended to these sectors by Acts of 1858 and 1862. 1863 marked the start of a boom in joint stock company promotion. In 1862, 500 limited companies were registered in Britain. Registrations for the next three years were 746, 967, and 992. Many of these offered shares to the public, including 283 manufacturing and trading companies, 147 mining companies, 82 hotel companies, 58 banking companies, and 50 financial companies. In December 1865, *The Times* remarked that companies rivalled princes ‘in their pride and profusion’. Frequent short stories began appearing in *All The Year Round*, most of them by Malcolm Meason, providing a running commentary on the joint stock boom. The stories, written either from the point of view of a gulled investor or a fraudulent promoter, sought to reveal the mysteries of the shady world of joint stock finance to a general audience, and to reduce the chances of their getting cheated. The instability that these limited companies were introducing into commerce was noted. *The Times* was concerned that the City had become home to a dangerous number of fraudsters:

nowhere are there such astounding illusions as in this city of colossal realities. There are some men engaged in producing the most substantial results, and others by their side blowing the most empty and fragile of bubbles. On your right hand is the most sturdy honesty and plain-dealing, on your left the most gigantic and unscrupulous swindle. There are men there who, if sold up to-morrow, would be worth millions, and others, to all external appearance the same, whose value is hundreds of thousands less than nothing.

The existence of so many fraudulent, misguided, or unsound companies was facilitated by the phenomenon of finance companies. Such was the demand for capital among the new companies that the finance companies could charge very profitable rates of interest. The profits to be made in financing attracted more companies, whose shareholders saw the chance of an easy fifteen or twenty per cent. Competition between these finance companies did not drive down the high rates of interest charged; instead it drove down the

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21 & 22 Vict. c. 91; 25 & 26 Vict. c. 89.
14 *The Times*, 16 Dec. 1865, p. 8.
15 *The Times* commented: ‘to “finance” is a new verb with which our language has been enriched within the last four years’. 2 Feb. 1866, p. 7.
quality of securities accepted by the companies in return for loans. The capital of these
companies was therefore tied up in investments which might not prove profitable for many
years, if at all. They were unable to raise money on the strength of their securities in an
emergency, because they were bad. Furthermore, calls were difficult to make because of the
speculative nature of the market: shareholders held more shares than they could afford, so if
calls were made, there was a rush to offload the shares, the share price plummeted, and
creditors panicked and demanded their money. Thus these finance companies were highly
vulnerable in a crisis.16

They began to hit difficulties in early 1866. Shares in the Joint-Stock Discount
Company, floated in February 1863, were at 50 per cent discount in February 1866, after
repeated calls.17 The following month, the company collapsed. In April, an accountant’s
report revealed that a large portion of the paid-up capital of the Financial Corporation was
lost, and that a far larger sum than the paid-up capital was tied up in inconvertible
securities.18 These and similar cases depressed the market so that shares in ostensibly
flourishing finance companies could not be sold, due to a universal fear of calls.19 By May,
suspicion was endemic. ‘The great moral to be drawn from the present Financial Panic is that
money is really not worth 30 per cent’, stated The Times.20

Even before the fall of Overend and Gurney, Russell’s Government proved itself
responsive to the needs of the joint stock economy by preparing a Bill to permit companies to
divide their capital into shares of a smaller amount than that stipulated by their constitutions,
provided this was not below £10.21 It was designed to try to revive the market for company
shares, which was in a state of crisis due to the overhanging liability on the shares of so many
companies. The Bill, promoted by Milner Gibson, President of the Board of Trade, was
ordered on 3 May, received its first reading on 7 May, and had passed all its stages in the
Commons by 24 May, a fortnight after the fall of Overend and Gurney, without any debate.
The Bill met with opposition in the Lords, however. Lord Redesdale, the Conservative
Chairman of Committees, thought the Bill would allow companies to ‘get rid of a liability to
which they were now subject.’22 Other Lords expressed a more fundamental dissatisfaction
with limited liability, tracing current difficulties back to the measures of 1855-6. Earl Grey, a
Liberal, told the House that it had to take care to frame the law so as ‘not to give improper
encouragement to a spirit of gambling. The effect of recent legislation had been most

16 Patterson, ‘Panic’, p.82.
17 The Times, 2 Feb. 1866, p. 7.
18 Ibid., 30 Apr. 1866, p. 8.
19 Ibid., 7 May 1866, p. 8.
20 Ibid., 10 May 1866. p. 8.
21 A Bill to Amend the Companies Act of 1862. PP, 1866 (139) II.201.
22 PD, third series, 183 (7 Jun. 1866), c. 2028. All subsequent references to Parliamentary Debates in this
chapter are to the third series.
mischievous in stimulating such a spirit already too prevalent. Lord Overstone was even more forceful, calling the shares of the companies in difficulties ‘little else but gambling symbols used not for the purpose of promoting industry, but to facilitate practices which had about as much relation to honest industry as the exchange of cards over a gaming table’. He had obtained a return indicating that by May 1864 there was a total of 42 million shares in existence, and that between January 1863 and May 1864 alone, 13.35 million new shares were created. Many more had been created after this date. ‘Was it wise’, asked Overstone, ‘to pass an Act for splitting up and thus causing an extensive multiplication of these shares?’ Redesdale, Overstone, and Grey were able to muster sufficient support to defeat the Bill, 17-14.

But this was far from the last word on the matter. The law of limited liability came under intense scrutiny as a result of the fall of the finance companies, the collapse of Overend and Gurney, and the subsequent suspensions and failures. There was a new awareness of the riskiness that had been introduced into commerce by the limited liability system. Even staunch supporters of the principle admitted there were problems with the law. Bagehot in the *Economist* wrote, ‘It has hardly been observed how new an element of danger limited companies introduce. The moment the operations of the stock exchange depress their prices, that instant a run begins. Overend’s, no doubt, deserve to go, but many companies may go which did not deserve it merely from the depression of their shares.’

Such feelings simmered through 1866, and found expression in the Commons early the following year. Edward Watkin, a Liberal MP, pamphleteer, and director of several railway companies, had moved towards the end of the 1866 Session for the appointment of a Royal Commission to investigate the causes of the panic, and to consider the currency laws. His attempt failed to win significant support, though Sir Stafford Northcote, the Conservative successor to Gibson at the Board of Trade, promised that the Government would look carefully into the matter. The government remained inactive, so Watkin renewed his efforts in the following Session, moving in March 1867 for a Select Committee on the operation of the Limited Liability Acts. In 1866, his proposal had been unpopular, but this time he won support for an investigation. He stressed that joint stock companies were now a hugely important feature of the economy. There were, Watkin stated, 2,200 companies with, he estimated, a nominal capital of around £1 billion, 750,000 shareholders, and 12,500 directors.

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23 Ibid., c. 2034.
24 Ibid., c. 2028.
25 Ibid., c. 2029.
27 PD, 184 (31 Jul. 1866), cc. 1706-61.
and trustees. But he went on to paint a gloomy picture of the state of the corporate economy. 266 companies were currently in liquidation, and the shares of the rest of the limited companies were, for the most part, either at a discount, or their operations were so circumscribed as to show that they were almost in a state of collapse. Watkin pointed out that the government had not fulfilled its promise of last session, but this was, considering the position of so many joint stock companies, a suitable time for the House to 'carefully review a law containing so much that was novel and experimental.'

The Liberal MP Walter Morrison, who seconded Watkin's motion, agreed, arguing that this was an important subject for the House to consider. 'The ruin which last year brought down so many families to the ground, had affected classes which before had never been known to be much connected with joint-stock enterprises; and, in fact, all classes were involved in it – farmers, tradesmen, domestic servants, peers, and peasants'. He thought that as limited liability was bound to become more popular, superseding private enterprise, 'no time should be lost in improving the law before the transactions in connection with it became so large that it would be almost beyond the power of Parliament to deal with it.' David Salomons, another Liberal MP who also supported the motion, argued that an investigation was necessary because 'Very great discredit had fallen upon the commercial character of this country in consequence of the ruin into which many of those companies had sunk'.

Watkin put forward several ideas to tackle the problems generated by the existing legislation. One of the principal evils was irresponsible directors. As the law stood, 'any seven persons' might take a share of a farthing each, present a memorandum of association to the Registrar of Joint Stock Companies, and thus form a corporate body which there was no power to dissolve. He wanted the law to fix minimum share denominations, and a minimum number of shares to be held by every person signing the memorandum, to ensure that those behind a company had a substantial interest in the concern. Furthermore, he wanted to see the French system of en commandite implemented. 'It was notorious that a great number of concerns, which had been rotten from the first, were floated in the market entirely on false representations. Such things could not happen if the directors and promoters of these companies were under unlimited instead of limited liability.'

Alderman Salomons did not support the introduction of en commandite partnerships, but only because he believed they would give total control of the capital of a company to one

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28 Ibid., 185 (5 Mar. 1867), c. 1372.
29 Ibid., c. 1374.
30 Ibid., c. 1374.
31 Ibid., c. 1380.
32 Ibid., c. 1382.
33 Ibid., c. 1383.
34 Ibid., c. 1377.
or two *gérants*. He did support measures to ensure companies were 'conducted by capital and not by credit.' This was not what was currently happening. Businesses only called up a small amount of capital, relying for the rest on bills of exchange and other credit accommodation. The law thus encouraged 'rash and immoral speculators' to set up companies with small paid up capitals, 'and the only wonder was, that more calamities had not taken place.'

Watkin also proposed that companies be empowered to reduce the capital of their businesses, and to reduce the denomination of shares. The law as it stood locked up capital and generated uncertainty, for shareholders had to keep money in reserve to cover any calls that might be made in the future. He pointed to 'the enormous amount of money which was kept in people's pockets and tills, because of the overhanging weight of uncalled capital'. He also drew attention to the excessive amount of litigation involved in winding up companies. He proposed that a uniform procedure for winding up be established. Four different courts were currently involved in winding up companies, and 'Some liquidators thought it their duty to get as much as possible for the creditors, while others believed that it was to the interest of the shareholders they ought to look.'

In Watkin's view, liquidators were a new parasitic interest group which had attached themselves to joint stock companies. 'As long as the liquidators had so many guineas a day, it was probable they would continue to find matters constantly arising which required great deliberation and grave consideration.'

What is perhaps most remarkable about Watkin's speech was not his criticisms of limited liability, but the moderate tone in which his criticisms were made, and the limited scope of his proposed reforms. He stressed that the system was 'founded on a principle essentially sound.' He was far from wishing to be understood as expressing a general condemnation of that principle; what he contended for was that in the interest of the public generally the law required amendment. He was confident that the problems with the limited liability system could be easily eradicated, believing that 'the area of irregularity was very small, and that the evil approached with boldness might with ease be removed.'

Morrison employed similar language. He emphasised that 'he firmly believed in the principle of limited liability, and that it had nothing to fear from investigation.' Salomons wanted to
see the defects of the law remedied ‘without interfering with the principle of limited liability’.44

Indeed, the Conservative Government would not countenance any reform which challenged the foundations of the legal regime established in the 1850s. Northcote only decided to make no objection to granting the committee when he learned that it was not Watkin’s intention to challenge the principles of the Limited Liability Acts.45 He was ‘anxious to have it understood distinctly that in assenting to inquiry we do not intend to impugn in any way the principle of limited liability’.46 He was glad that Watkin had concerned himself only with ‘points of detail’.47 Both Hunt and Cottrell have argued that it is significant that the Select Committee set up after the crisis was primed with investigating company law rather than currency law, unlike 1847 and 1857.48 But this significance should not be exaggerated, as the government clearly supported the principles on which company law was based. Northcote defended Palmerston’s Acts wholeheartedly, arguing that much of the recent crisis had been ‘perhaps hastily and without sufficient consideration, attributed to the operation of the limited liability laws. I think that these laws have been made to bear a greater amount of the burden than is really due to them’.49 Northcote hoped that the committee would be able to help ‘distinguish between that which is good and sound in the principle on which they rest, and those things which are only incidental accessories to the working of the principle, but which have perhaps conduced to results we all deplore.’50 He denied that the system gave rise to speculation and fraud: both phenomena existed before limited liability was made general.5 He therefore did not support a radical restructuring of the law, instead advocating measures to make it easier for companies to reduce their capital, and an inquiry into the method of liquidation.52

The Select Committee on the Limited Liability Acts

A committee was appointed on 8 March, and met through March, April and May. Watkin had the chair, and as P. L. Cottrell has noted, the committee contained a large ‘City’ faction.53 In

44 Ibid., c. 1384.
45 Ibid., c. 1384.
46 Ibid.
47 Ibid., c. 1385.
49 PD, 185 (5 Mar. 1867), c. 1384.
50 Ibid.
51 Ibid., c. 1385
52 Ibid.
53 Cottrell, Industrial Finance, p. 61.
particular, the committee was dominated by the Liberal triumvirate of William Forster, George Goschen, and Robert Lowe, the architect of the Act of 1856. The committee heard the testimonies of seventeen witnesses, a cross-section of city lawyers, financiers, company directors, merchants, bankers, and civil servants. These witnesses suggested a variety of solutions to the ills of joint stock enterprise as revealed by the crisis of the preceding year. But the more radical of these suggestions were pounced on by Forster, Goschen, and Lowe, who did their best to discredit all remedies which involved the replacement of individual responsibility by greater state controls.

Nearly all the witnesses supported the principle of general limited liability. This is far from surprising, as most of them had stakes to a greater or lesser degree in the continuance of the system established in 1855-6, as financial agents, company lawyers, and directors. Despite this, several witnesses did propose substantial amendments curbing the powers and increasing the liabilities of directors, in an attempt to protect creditors and shareholders and to stabilise the joint stock system. The lawyer Charles Wordsworth advanced several proposals which were unpopular with the dominant faction on the committee. He proposed that companies' borrowing powers be limited. Lowe was sceptical: 'If the Government attempts to limit that which it really cannot limit, does it not deceive people into supposing that it will be limited?' Goschen thought Wordsworth's suggestion that directors be made personally liable for acting *ultra vires* was impracticable and would lead to endless disputes in Equity between shareholders and directors. The MP asked Wordsworth, 'cannot you conceive that there are gradations of operations which would make it impossible to say where one object began and where another left off?' As a further protection to creditors and shareholders, Wordsworth proposed that companies should be obliged to have at least 20 per cent of shares paid up. Forster objected, asking, 'do you not imagine that there would be a danger that the creditors would feel themselves acquitted from the necessity of themselves examining into the position of the people to whom they lend their money, in consequence of the law interfering to protect them?'

Wordsworth was in no doubt of the need to make directors more responsible for their actions: 'they have in the management of these concerns an opportunity of plunging the shareholders into great confusion and great expense...and the directors themselves do not suffer in any greater proportion than the other members of the company.' When asked whether this was not the case with all paid agents, Wordsworth replied, 'No doubt; but with regard to paid agents employed by private individuals, there is more active

54 Select Committee on the Limited Liability Acts, PP, 1867 (329) X.393, p. 26, q. 399.
55 Ibid., p. 28, q. 443.
56 Ibid., p. 28, q. 433.
57 Ibid., p. 31, q. 497.
superintendence...where there are large bodies of members of a company of this sort, they cannot act well...there is not, and cannot be, any effective control or check which the members can exercise over the directors. Several witnesses wanted directors to bear more personal responsibility. Thomas Webster, a lawyer, thought that company managers should be liable to an unlimited extent. Edmund Church, one of the chief clerks of the Rolls Court, thought that promoters should be compelled to subscribe for, and pay a deposit on, a substantial number of shares, to ensure that those behind a company were men of some substance, and to bring the interests of directors and shareholders closer together. Lord Romilly, the Liberal Master of the Rolls, thought that all managers of joint stock companies should be made more responsible, with double or treble liability rather than the same liability as their shareholders. But these proposals were opposed by the dominant voices on the committee. Forster told Romilly that his proposals were ‘an interference with the freedom of trade’, and accused him of wanting to ‘interfere with the liberty and freedom of men of business making arrangements with one another’. Lowe joined in, asking Romilly, ‘Do you not think that, in devising these protections for foolish people, you are making fetters for wise ones?’

Several witnesses doubted the logic of introducing new protections for ‘foolish people’. Edward Curzon, Joint Stock Companies Registrar, perhaps trying to justify one of the functions of his office, claimed that members of the public could be found searching through company records ‘all day long...for some information or other’. But others denied that investors were so careful, believing that shareholders did not use the facilities provided by the law to investigate those with whom they were entrusting their capital. William Drake had ‘seen shareholders flock in by hundreds and sign a deed, when they have never even looked at it.’ Webster said that ‘people come in and sign Articles of Association like sheep, without ever reading them’. Many doubted whether such people deserved any sympathy. William Newmarch, the city financier and banker, stated that ‘If a person is foolish enough to take shares in a concern about which he knows nothing, and about the directors of which he knows nothing, he must take the consequences.’ As investors were not using the facilities open to them to protect themselves, the need for further regulations was doubted. Others, while agreeing that shareholders were largely ignorant, refused to condemn them on this

58 Ibid., p. 31, q. 498.
59 Ibid., p. 49, q. 765.
60 Ibid., p. 97, qq. 1510-13.
61 Ibid., p. 91, qq. 1411-12.
62 Ibid., p. 94, q. 1472.
63 Ibid., p. 14, q. 278.
64 Ibid., p. 45, q. 695.
65 Ibid., p. 49, q. 764.
66 Ibid., p. 68, q. 1066.
score, and thought that they needed protection by the law. Browne admitted that substantial and experienced capitalists needed no protection, but remarked that the purpose of making limited liability legislation general was to draw in the capital of small capitalists, 'who are not so capable of taking care of themselves, and certainly not so capable of understanding long legal documents.' Romilly received many letters from people injured by joint stock companies, and while he attributed their plight to 'folly', he thought it 'the duty of the Government and of legislation...to protect people who are ignorant and foolish.' Swinton Boult, whose proposals have been termed 'reactionary' by Cottrell, wanted to make incorporation dependent on a preliminary inquiry into the feasibility of the scheme proposed, in order to protect the public. The certificate of registration misled investors into thinking that the company so registered carried with it the approval of the state. He argued that registration should only be permitted to legitimate enterprises:

My impression is, that a great many objects for which companies are formed now, are not at all fit objects for companies to undertake, and would not be undertaken with a bona fide intention, and that those are the very companies which lead unsuspecting people, and people of small means, and ignorant people, into trouble, and that so long as the law exists in its present state, some means should be found to give those people a protection which they are utterly unable to find for themselves.

Wordsworth agreed that the possession of a certificate of registration did not guarantee security for investors. It was easy for a group of promoters to secure incorporation 'by signing this piece of paper', and begin trading with no capital.

But the committee was not interested in introducing such safeguards. Proposals to strengthen the role of the Joint Stock Companies Registrar, making the office more than a 'mere clerkship' by giving him the power to check companies' articles of association for serious defects and to veto such articles, met with hostile questioning. If implemented, such power would be a step towards the reintroduction of the element of state discretion in the grant of corporate privileges, which might eventually end automatic incorporation, a prospect which was anathema to Lowe, who took great pride in his part in the legislative achievement of 1856.

The financial agent David Chadwick's proposals along these lines were seized on by Lowe, who asked, 'Would it not be liable to this objection, that people would put trust in the Registrar more than they should do, and throw all the blame upon him when they found

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7 Ibid., p. 71, q. 1125.
68 Ibid., p. 90, q. 1393-4.
69 Cottrell, Industrial Finance, p. 59.
7 Select Committee on the Limited Liability Acts, p. 106, q. 1711.
71 Ibid., p. 17, q. 300.
72 Ibid., p. 25, q. 369.
they were mistaken?...Is it not the least to do all we can to inculcate in people that they had better trust to themselves than to others in these matters?"24 The barrister and director George Browne wanted to see greatly increased powers for the Registrar that Lowe told him that such steps would "put to sleep all private vigilance". Cuninghame did not think it proper for the Registrar to inquire into the "stains" of those signing the memorandum of association, nor did he think that the articles of association should be examined and approved by the Registrar before they took effect, as was the case with benefit societies. But he did think it desirable for the Registrar to compare the memorandum with the prospectus to check for inconsistencies before granting a certificate of registration. Any discrepancies would be sufficient reason for the Registrar to refuse the application. This proposal was seized on by Goschen, who asked, "Would you hold that, if something slipped your attention, the public might afterwards bring a complaint against the Registration Office for having been misled by its having received the certificate?"

"The committee's priorities were not to restrict the actions of, or increase the liabilities of, directors, nor to strengthen the regulatory powers of the state. The evidence was heard at a time when the depression, prompted by the events of May 1866, continued to hang over trade. Committee members displayed less interest in combating over-speculation and fraud, and more in measures which would provide a stimulus to trade." The committee, therefore, looked most favourably on those proposals which seemed to offer a means of eliminating the fear and lack of trust which hindered business. The nostrum which proved most popular was the one that had been suggested the previous year—that of allowing companies to reduce the denomination of the share. To this was added the further proposal of allowing companies to reduce the total capital. It was believed that these measures would restore confidence in the joint stock economy by making investment in it safer. The 1866 crisis had revealed that despite the Acts of 1855-6, shareholders could still find themselves facing de facto unlimited liability. A large nominal capital was the norm for companies formed prior to 1866, a symbol of wealth which would attract business. But companies found they did not need all of the capital, and the uncalled margin made shares unattractive to shareholders. Newman outlined the typical situation: "A company which really required only 1,000,000l. for itself, with a great flourish of trumpets, two years ago, with a capital of 2,000,000l, and if it finds its shares entirely unsaleable in the market." Drake told the committee that many hundreds of people have parted with their shares at a ruinous sacrifice rather than
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74 Select Committee on the Limited Liability Acts, p. 57, qq. 900-1.
75 Ibid., p. 80, q. 1279.
76 Ibid., p. 12, q. 231.
77 Ibid., p. 64, q. 1010.
that liability'. Chadwick agreed: 'People will not, after the late crisis, invest their money in the purchase of shares, even in sound trading companies, having so large a margin of capital unpaid.'

These witnesses were prominent in lobbying the government to allow companies to reduce their capital and share denominations. Chadwick had been involved in a deputation to Northcote in November 1866 which presented the President of the Board of Trade with an outline bill to enable capital reduction; Newmarch and Drake were members of a deputation which approached the Board of Trade in March 1867, while the committee was sitting. The government was responsive to this pressure, finding these solutions more palatable means of restoring confidence in joint stock investment than imposing greater controls on directors. The number of company promotions had fallen off dramatically after May 1866. Shareholders faced large calls on their investments. This was a source of amusement to Punch, but witnesses before the committee stressed the damage being done to the country's economy by the limited liability laws as they stood. The overhanging liability, reasoned Newmarch, meant that large amounts of capital were kept in 'suspended animation', as money had to be set aside by shareholders in case of calls. Chadwick made the same point that overhanging calls kept capital in suspense, telling the committee that 'within the circle of our own acquaintances and our clients, which extends all over the country, many millions of money are held in reserve on that account.'

Hitherto, hostility to low share denominations and fully paid up shares was based on fears that they would lead to an inferior class of shareholders, and provided insufficient safeguards to creditors. Both of these objections were broken down by the events of 1866. It was now argued that high value shares in fact lowered the quality of the shareholders. Shares with overhanging liability were sold cheaply in 1866, and were, according to Drake, 'purchased by more speculative and, generally speaking, less responsible parties, thus lessening the security of the creditor.' High share denominations with overhanging liability made for a 'less stable, and less reliable' constituency. When asked whether low denomination shares would lead to more ignorant share holders, Webster replied, 'I think not, I think the great flats are the rich men.' It was now thought that a larger number of small

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78 Ibid., p. 40, q. 614.
79 Ibid., p. 54, q. 858.
82 *Select Committee on the Limited Liability Acts*, p. 33, q. 528.
83 Ibid., p. 55, q. 868.
84 For an overview of the change in attitudes, see James B. Jefferys, 'The Denomination and Character of Shares, 1855-85', *Economic History Review* 16 (1946), pp. 45-55.
86 Watkin, Ibid., p. 40, q. 615.
87 Ibid., p. 50, q. 786.
shareholders would provide greater security for creditors. Newmarch argued, 'the smaller the shares be made the larger becomes the basis of the company. The creditor has much better security with 10 men holding 100l. each than with one man holding 1,000l.'

The uncalled portion of the share had traditionally been viewed as security for creditors, as it provided a reservoir of capital on which creditors could draw. But the actual benefits of this had come to be questioned. Drake argued that

Practically, no advantage or security is gained from the uncalled capital upon shares of large nominal amount, say 50l. or 100l. In the great majority of cases additional security would be given to creditors, if a company so constituted were to divide its shares into smaller denominations, for by so doing it would, by making its shares more readily saleable, increase the number of its members, whilst the individual responsibility of each member would be decreased, and the ability of the whole body of members to meet calls, in case of a winding-up, would be unquestionably greater...

William Henderson, a city accountant, agreed, arguing that a large nominal capital gave companies credit they did not deserve, and made people more likely to deal with them 'under the impression that the large amount of uncalled capital forms a valuable security' which was revealed as illusory when the company was wound up. The committee's report therefore recommended that companies be allowed to reduce their capital, or the amount of their shares, or both, with the permission of company creditors, on notifying the Registrar and advertising the fact.

The committee's other proposals indicated that the main concern was to restore the vitality of the joint stock economy after the blow it had received the previous year, not to tackle the wider issues raised by this blow. Newmarch recommended steps to make shares fully transferable. He pointed out that 'the moment a share is paid up to the full amount, it ceases to be a matter of any consequence to the public whether it is held by Jones, Smith, or Robinson, or anybody else.' When there was no money left to call on the share, the character of its holder was no longer a matter of concern to a company's creditors. This meant that there was no reason why companies should not be able to issue certificates to bearer when the money was paid up, a step which would greatly aid the transferability of shares. 'It would certainly add very much to the eligibility of shares in Limited Liability Companies, as a security upon which to raise money', Newmarch argued, 'if certificates of

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88 Ibid., p. 34, q. 539.
89 Ibid., p. 39, q. 601.
90 Ibid., p. 59, q. 929.
91 This is further than the Liberal government had been prepared to go in 1866. Milner Gibson's bill would have allowed companies to subdivide their shares, but not reduce their capital, for he did not see how creditors of 'reduced' companies could be given adequate security. PD, 184 (18 Jun. 1866), c. 500.
92 Select Committee on the Limited Liability Acts, p. 34, q. 547.
those shares could be made transferable to bearer. They would then be an available security in a very ready form, and would have a great many advantages which do not attach to property which can only be transferred by a personal transfer. Goschen and Newmarch agreed that 'the present regulations for the transfer of shares impede very much the business between foreign countries and ourselves in shares which are issued in London'. The rationale for the residual liability of shareholders after transfer of shares — to protect creditors — was perceived by some witnesses as no longer valid, as this liability offered no real protection. Drake believed that 'no mode has yet been found out by which a shareholder who has been off the register can be made a contributory.' Church thought it was impossible for creditors to reach previous shareholders in the courts, stating, 'no call has ever been, so far as I know, made upon the past shareholders.' Therefore there was no reason to prevent the fully free transfer of shares with no residual liability.

The committee took up these suggestions and they formed part of the report. The committee also responded to the comments of several witnesses on the problem of 'wreckers': people who bought shares in a company purely to present a petition to wind it up, with a view to being paid off by the company directors. The mere presentation of such a petition could damage a company's reputation. The committee recommended that winding up petitions should have to be signed by one or more of the original shareholders, or by a shareholder of more than six months. The committee also recommended that companies be able to have some shares paid up in full, and others not fully paid up. The committee wanted to see the law amended to help companies out of the slump, and was patently not interested in curbing the powers of company boards. Just two recommendations were offered as a sop to those who wanted greater controls on directors: that all companies be obliged to hold a general meeting of shareholders within four months of registration; and that en commandite companies be permitted, but not made compulsory. Directors were not to be forced to be more responsible, or to bear greater liability for their acts than passive investors in their companies. Other ideas aired by witnesses, such as preventing companies from dealing in their own shares, thus making rigging the market more difficult, standardising company constitutions to give less of a free hand to promoters to grant themselves exceptional powers, and forbidding the release of a prospectus until the memorandum and articles of association were printed, were not taken up.

The significance of what was included in, and what was excluded from, the committee's report did not escape Walter Bagehot, writing in the Economist.

93 Ibid., p. 34, q. 547.
94 Ibid., p. 37, q. 585.
95 Ibid., p. 43, q. 647.
96 Ibid., p. 101, q. 1593.
97 Ibid., p. 45, q. 690; p. 68, qqs. 1075-8.
The committee of the Commons on the law of limited liability, under great difficulties, did its work exceedingly well. The doctrine of limited liability was extremely unpopular; it had just been grossly abused; it had just palpably and plainly intensified a panic... The country was discouraged and suspicious... But the committee declined, even by a hair's breadth, to interfere or impair the principle. Many most plausible proposals were pressed upon them, but they said, "Let people make what contracts they like; if they choose to take shares in bad companies, let them take such shares; if others choose to trust such companies, let them trust them."

Bagehot realised that the joint stock system had done more than weather the challenge posed to it by the events of 1866, it had emerged stronger and more entrenched than ever. The committee 'was asked to confine limited liability; it has extended and completed it.' The Act would remedy 'the evils caused by partial freedom by the wise concession of complete freedom.'

The Conservative Government framed a Bill closely based on the committee's report. As with the 1866 Bill, the only opposition was met in the Lords. Redesdale complained that the measure threatened the interests of creditors, and 'appeared to him to be framed in order to enable companies to do anything.' But this time, he was unable to block the Bill, for the government was determined it should pass. The Conservative Earl of Harrowby summed up the rationale behind the measure, urging

the very great importance of giving something like stability to joint-stock companies. Great discredit had been thrown on these undertakings, and public confidence in them had been shaken by the disparity which had been found to exist between real and nominal capital; and it was highly desirable, if possible, by removing that disparity, to give solidity to property of this nature.

A particular view of the joint stock economy shaped the way in which the select committee was conducted, and the form the subsequent Bill took. The priorities of both the Liberal and Conservative parties were to stabilise, restore confidence in, and support, joint stock enterprise, rather than reform it in any significant way. These priorities were not shared by everyone. A range of reforming ideas were put before the committee, but were dismissed. Discontent with the joint stock economy was also expressed elsewhere, in popular magazines.

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98 Ibid., p. 410.
1 PD, 189 (15 Aug. 1867), c. 1545.
101 The Duke of Richmond, having replaced Northcote at the Board of Trade, told the Lords, 'the measure altogether was one which greatly interested the banking and commercial world, and which they were very desirous should pass in the course of the present Session.' Ibid.
102 Ibid., c. 1546. 30 & 31 Vict., c. 131.

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and plays in the period immediately after the crisis of 1866. The next section considers these opinions, hitherto neglected by historians.¹⁰³

*Popular Attitudes to the Panic and its Aftermath*

The City came in for much criticism after May 1866. This cartoon from the Liberal satirical weekly *Fun* depicts a gathering of City figures as contrite children before the Old Lady of Threadneedle Street, who has been forced to bail them out from her stock(ing) of reserves.

Fig. 5.1. *A Bank Stock(ing)*

![A Bank Stock(ing).](image)

*Source: Fun, new series, 3 (26 May 1866), p. 107.*

In the aftermath of the crisis, the ‘bears’ who were thought to have in part caused the panic by driving down the shares of the finance companies were singled out for censure. This

¹⁰³ Cottrell makes the point that opinion outside parliament was in some measure unfavourable to joint stock companies, but cites only two pamphlets, by John Howell and Leone Levi, to support his argument. Cottrell, *Industrial Finance*, p. 58. Similarly, Hunt states that, ‘A universal outcry against all joint-stock companies broke forth’, but offers little detail to substantiate the claim, other than repeating Bagehot’s highly exaggerated claim that the House of Commons was ‘almost hostile’ to limited liability. Hunt, *Business Corporation*, p. 154.
cartoon of June 1866 shows Mr Punch drenching a bear in ‘Retribution’ and ‘Contempt’, as the bulls of the Stock Exchange, for once not the target, look on approvingly.

Fig. 5.2. How to Treat the “Bears”


_Punch_ wanted to know ‘who conspired Against the Banks, to sink the Shares’, and wanted to turn the tables on ‘that vile gang’.\(^{104}\) The members of this gang were no better than criminals: ‘For some time past crime has become scholarly and soft, working more safely and successfully with a pen and a smile than with pistol and mask. House-breaking is as old as hunger; Bank-breaking displays all the grace and energy of youth.’\(^{105}\) The characters involved in City crime were no different to society’s more familiar villains: ‘JACK SHEPPARD defying recognition with spray whiskers and diamond studs, blocks the entrance to Capel Court, and SYKES, his black eye painted out, lounges along Lombard Street, attended by a Bear instead of a Bull-dog.’\(^{106}\) A Stock Exchange committee was established to look into the events of 1866, but _Punch_ thought that the bank-breaker was ‘as much entitled as a burglar to be tried by his peers.’\(^{107}\) The committee was sure to prove inadequate to drive out the bears, who had ‘protectors whose names deserve to be posted elsewhere than on the

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\(^{105}\) Ibid., 50 (23 Jun. 1866), p. 267.

\(^{106}\) Ibid.

\(^{107}\) Ibid.
Stock Exchange'. R. H. Patterson, the Scottish journalist and financial expert, writing in Blackwood's, criticised 'the shameful and wicked conspiracy of speculators, who of late have been fattening on the spoils of the community.' The recently-established Conservative magazine Tomahawk saw one of its roles as helping to curb the excesses of the Stock Exchange: in its first anniversary edition, it carried a cartoon, 'The Modern Hercules', which set out the labours facing the new journal. Alongside such tasks as ‘Overcoming the monster democracy’, and ‘Taming the wild boar of South Kensington’ was ‘Tying the stag of Capel Court’.

The bears were one target; another was the railway interest. Of all the corporate powers in the economy, railways were the most visible, and the most reviled. Punch carried a verse, ‘The Railway Despots’, inspired by the ‘extension mania’ of the 1860s, which indicated the popular sense of helplessness in the face of corporate power.

The public may not want our train,
Our railway desire not to see;
But you’re governed by mercantile men,
The strongest among them are we.

The bullying and blackmailing tactics of railway companies came in for much hostile comment. The southern railways put up prices when their amalgamation scheme was thwarted by Parliament, which Punch saw as an attempt at blackmail, but one which would ‘probably have a different effect from what they contemplate. Already Government is proposing to take the Telegraphs into its hands. Perhaps the Railways will follow.’ In ‘The Director’s Opera’, Punch portrayed railway directors as primarily interested in ‘all we can screw out of our Passengers’ Pockets.’ The Pall Mall Gazette explained that the railway companies’ strength derived in large measure from the presence of so many directors in Parliament. The way to solve this was for voters to cease to vote for directors. Punch wholeheartedly agreed: ‘Voting for a railway-man is like voting for a robber, which no honest voter surely would intentionally do.’ Fun agreed, drawing attention to the special legislation sneaked through Parliament by the railway interests: ‘It is time that some M.P.s who are not railway directors, should see into this.’

8 Ibid., p. 268. See also ibid., 51 (29 Aug. 1866). p. 261.
9 Patterson, ‘Panic’, p. 93.
10 Tomahawk, 2 (2 May 1868), pp. 177-9.
13 Ibid., 55 (22 Aug. 1868), p. 79.
15 Ibid.
16 Fun, new series, 3 (9 Jun. 1866), p. 123.

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Company fraud left a huge impression on the public. The London, Chatham and Dover Railway, which became in *Punch* the London, Cheatem and Clover, was an example. The company’s contractor was the Liberal MP Sir Samuel Morton Peto. Peto was responsible for financing the metropolitan extensions of the railway in the 1860s, which resulted in a massive over-issue of debentures. Peto’s contracting business, which had been in financial difficulties since the late 1850s, collapsed the same day as Overend and Gurney, with whom Peto had extensive dealings, and the London, Chatham and Dover was declared bankrupt soon after. Peto became a popular target, in the same way that George Hudson had twenty years earlier. *Fun* depicted him as a clown who had outwitted the railway’s shareholders and stolen their money. A story of his life was drawn for *Punch’s* 1867 Almanack, charting his progress from ‘idle apprentice’ to millionaire, in contrast to the life of the industrious apprentice, who invests his life’s savings in Peto’s railway and loses everything.

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The lesson was clear: honest hard work no longer paid in the Britain of the 1860s; roguery and deceit did. This point is driven home repeatedly: the image of the money bag is repeated through the story and is associated with Peto: at one point he is seen draped comfortably in an armchair with a cigar, his smoke rings forming themselves into money bags, emphasising that the wealth of such men was based not on solid, honest industry, but financial manipulation, fraud, and trickery. Investors were at the mercy of such men. ‘Women and children, with here and there a country parson, fancy that everything connected with rails must be perfectly straightforward’, wrote Punch. But: ‘Rails, I have lately discovered, are carried out in very crooked ways, and those who lay down the sleepers are themselves remarkable for being very wide awake.’\textsuperscript{120} Whereas cartoons from the railway mania of the 1840s had satanic or devilish engines as their focus, cartoons of the 1860s concentrated on the directors

\textsuperscript{120} Punch, 51 (8 Dec. 1866), p. 237.
themselves, suggesting an increasing conviction that directors as a class were irredeemably corrupt. They were depicted as modern highwaymen,\textsuperscript{121} or as delinquents, as in this cartoon from \textit{Fun}.

\textbf{Fig. 5.4. The Ducks (and Drakes) of Directors}

![Cartoon of鸭子和醉酒的人](image)

\textit{Source: Fun, new series, 5 (29 Jun. 1867), p. 166.}

Here, railway directors are shown dipping their hands into John Bull’s money bag and flinging his cash away. John Bull is blindfolded and passive, totally unaware of the situation, and an easy victim of the mischievous directors. In the distance, a less than formidable-looking train marked ‘Inquiry’ is approaching, representing the imminent government investigation into the railways. Whether the government engine will have much effect on the gathered directors is left in considerable doubt.

While railways companies were often singled out for particular abuse, contemporaries located them within a broader joint stock economy characterised by dishonesty and profligacy. \textit{Temple Bar} commented: ‘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

\textsuperscript{121} Ibid., 55 (15 Aug. 1868), pp. 70-1.
swindling within the limits of the law, exists on all sides and on every quarter.¹²² *Punch* was concerned to highlight the dual standards that existed in society regarding the frauds of big and small business, as in this cartoon, which sought to equate the two types of crime.

Fig. 5.5. *Rogues in Business*

This *Fun* cartoon, published while the Joint Stock Companies Bill was progressing through the Commons, shows the train of speculation being driven into the ether by Peto.

This is more than a criticism of railway schemes. The public in the second carriage of the train are reaching up to catch the bubbles being blown by directors, which include banks, as well as mining, finance, and hotel companies. We can see money invested with a bank director falling straight into a bag being held by his colleague, while banknotes flutter in the wind. The bubble imagery employed here displays a remarkable similarity to that of the cartoons of forty years previously on the schemes of 1824-5, indicating the durability of earlier critiques of the joint stock economy: these ideas still had popular resonance even after the changes in company law since the 1840s. Such perceptions derived from the fact that 36 per cent of the companies formed between 1856 and 1865 ceased to exist within just five years of their promotion.\textsuperscript{123}

Limited liability companies had a poor public image. The Conservative weekly \textit{Judy} carried this barbed comment:

\textit{A Suggestion.}

From the public's experience of the Court of Bankruptcy for the last twelve months, it is suggested that in future limited liability companies be designated as \textit{Unlimited Lie-Ability Companies}.\textsuperscript{124}

\textit{Judy} presented speculation in these companies as one of the ills, alongside trade unionism and faction, which were weakening the nation and leaving it vulnerable to foreign rivals. In

\textsuperscript{123} Shannon, 'First Five Thousand Limited Companies', p. 418.
\textsuperscript{124} \textit{Judy}, 2 (30 Oct. 1867), p. 3.
this cartoon, ‘John Bull’s Dream’, Bull is asleep, with impish figures representing the aforementioned evils crouched on his chest.

**Fig. 5.7. John Bull’s Dream**

![Image of John Bull's Dream cartoon]

*Source: Judy, 1 (11 Sep. 1867), p. 258.*

One is sitting on a stack of volumes marked ‘Limited Liability Company’, and two are brandishing share certificates. Other figures are hiding around and underneath the bed, while Bull, oblivious to the peril he is in, continues to sleep. The accompanying verse rams home the message that the country was in dire threat from these problems. Bull falls asleep with comforting visions floating through his mind, of ‘Old England flourishing in wealth and industry’, but soon he is troubled by ‘Un-English, lying, treacherous’ voices.

Trades Unionism, Faction, Speculation’s open theft
Drained the nation of its heart’s blood – no strength was in it left;
And as it still grew weaker throughout its breadth and length,
Each Foreign Rival from our loss drew health, and life, and strength.125

Contemporaries bemoaned the damage done to the country’s reputation by the commercial morality on display to the world. *Fun* was angered by an advert carried by *The Times*, inviting shareholders ‘desiring to avoid liability in case of liquidation’ to transfer their shares to a third party, who would retransfer them back if there was no liquidation. *Fun* was

highly critical of *The Times*: ‘Our commercial honour has been sufficiently damaged by the exposures consequent on the recent failures; a paper with a circulation like that of the *Times* should not bend itself to the propagation of such announcements. Obscene advertisements are carefully excluded, and the same machinery might be applied to sift others equally improper.’¹²⁶ *Punch* mourned: ‘the soil’d name of England, that once stood so high...has so fallen, through gold’s abject lust, That they who would seek it must look in the dust.’¹²⁷ The fraudulent collapse of Overend and Gurney (‘Underhand and Goldney’ in one contemporary drama¹²⁸), embodied what was wrong with the corporate economy, and the trial of the company’s directors in 1869 was popularly acclaimed as a sign that the law was beginning to treat large scale business fraud by the same standards as were applied to petty criminals. This cartoon from *Fun* shows Justice scooping up the Overend and Gurney directors by the scruffs of the neck with one hand, and a group of lowly criminals with the other.

**Fig. 5.8. Even-Handed Justice**

Justice is saying, ‘Now then, you respectable gentlemen, come into the dock with these other rogues!’ Fun imbued the case with a great significance: ‘The impartiality of English justice is more on its trial than the actual defendants.’ The outcome would reveal much about the state of the nation: on one side was wealth, respectability, and the best lawyers money could buy, on the other was ‘the honour of British Trade, the Commercial Integrity of England’.¹²⁹

The Overend case was not the only event keeping company fraud to the forefront of people’s minds in 1869. Spring saw a swindle involving the Great Central Gas Consumers’ Company.¹³⁰ Judy highlighted the phenomenon of embezzling company clerks, who, despite being ostentatious with their wealth, never seemed to be suspected by their negligent superiors until it was too late.¹³¹ Later in the year, the Albert Assurance Company folded. Both Fun and Judy carried cartoons illustrating the failure, and emphasising the plight of families left with no security by the fate of the company.¹³² Punch was indignant at the scandal. Policy holders who thought they had provided for their widows and children were left with nothing; some had hanged themselves. ‘Let us have no ex post facto laws, but let it be understood that the Directors of the next Assurance Company that collapses shall be hanged. The process can do no harm, and may do much good.’¹³³ Fun developed the idea in a poem entitled ‘The Perfect Cure’, written by ‘a sufferer’. The refrain, ‘hang a Director’ summed up the frustration felt by beleaguered victims of corporate bad behaviour:

We’ve reached a nice crisis in Commerce and Trade –
How long will it take us to get its effect o’er?
And the sole satisfaction for all, I’m afraid,
Is to hang a Director – yes, hang a Director!...

We have pinched, in the hope of insuring our lives,
But the Company proves to a careful inspector
So rotten, ‘tis useless to tell us it thrives –
So let’s hang a Director – yes, hang a Director!

Directors – aye, guinea-pigs, all of the lot –
Let’s make of the tribe, mob, conspiracy, sect, or
Whatever you call ’em examples: why not?
Let us hang a Director – yes, hang a Director!”¹³⁴

¹²⁹ Fun, new series, 10 (25 Dec. 1869), p. 156. Judy was similarly glad to see the directors on trial. Judy, 4 (10 Feb. 1869), p. 165.
¹³¹ Judy, 5 (5 May 1869), p. 17.
¹³⁴ Fun, new series, 10 (13 Nov. 1869), p. 103.
Conclusions

Yet directors were not hanged, nor was the public concern with over-mighty boards and fraudulent promoters translated into a tightening up of company law. This is not surprising. Those who expressed such anger, frustration, or contempt regarding the corporate economy did not advance solutions which were likely to be taken up inside Parliament. Comment on the joint stock system was largely (though not always) tied to newsworthy events such as the Albert Assurance scandal or the Overend and Gurney trial; though such events were frequent in the late 1860s, this comment did not build into a sustained demand for the revision of company law. The verdict of 'not guilty' in the Overend and Gurney trial received barely any comment in the satirical magazines, which seemed to assume that readers could have little interest in a trial which had dragged on for so long. Despite the criticisms of limited liability, and its part in the crisis of 1866, few called for the reintroduction of government discretion in the grant of the privilege. The edifice of company law constructed over 1844-62 was not seriously challenged in the late 1860s; rather there was a spirit of cynicism and disillusion with joint stock enterprise, and an assumption of the inevitability of the current system. This was because those voicing criticisms of the system shared some of the basic assumptions of its most extreme supporters.

The Select Committee of 1867 had believed that caveat emptor should regulate all joint stock transactions: that the defrauded had only themselves to blame, and that it was worse than useless to try to impose any central control on promoters and directors. Reform should not come from the legislature; all that was required was the reform of personal behaviour. If no one invested in fraudulent companies, they would die out. The satirical magazines displayed an ambivalence about defrauded shareholders: although a degree of sympathy for them was sometimes expressed, they were too good a target to pass up entirely. Accordingly, compassion frequently gave way to censure of investors who lost their money in fraudulent schemes due to their gullibility and greed.

Speculation was ultimately driven by greed for gain, and thus its victims could only meet with limited sympathy. Tomahawk published an allegory against speculation, in which various characters are described making their way to the Temple of Wealth. Work is one way there, but this is a difficult route. There is another road ‘that led straight to the Temple of Wealth smooth as calm water, but as treacherous as the sea, and eternal night dwelt along this highway. I knew that this road was called “Speculation,” and was one mass of pitfalls.’ We read one man’s attempt along this passage. He makes good progress, but he sees a mass of
jewels and gold, and pauses to pick it up. The accompanying illustration shows what happens.

Fig. 5.9. *A Sermon for the City!*

![Cartoon illustration](image)


He steps on a rock marked 'limited liability', and falls 'headlong into the abyss — among flames and utter ruin! ...he went on falling and falling through the most dreadful horrors until he reached his grave! And when he reached his grave — still he fell!'\(^\text{135}\) Revealingly, this cartoon was based on an earlier drawing by Cruikshank preaching the evils of crime, 'the demon tempter', which lured men to madness and ruin.\(^\text{136}\) *Tomahawk* was likening speculation in limited companies to other forms of crime, which could admit only of a personal solution: the temptation would always be present, and it was up to the individual to resist. As an earlier commentator had remarked: the 'hasting to become rich, which despises

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\(^{135}\) *Tomahawk* 1 (31 Aug. 1867), pp. 180-3.

\(^{136}\) ‘The Folly of Crime’, *George Cruikshank’s Table-Book*, 1 (Mar. 1845), opposite p. 45.
industry and scorns application' could not be cured by legislative enactments. 'The evil lies in our moral nature; so does the remedy.'

Magazines were hopeful that after the experience of 1866, the public were learning to refrain from dabbling in the Stock Exchange, and were sticking to honest labour and safe investment. *Punch* exclaimed:

Happy the man who lives content  
On money safe at three per cent.!

*Judy* carried ‘The Railway Shareholder’s Dirge’, which ends with a chastened investor learning a valuable lesson: never to trust directors again.

I no more will prove confiding,  
All their snares I’ll flee;  
And by Three per Cents abiding  
Satisfied I’ll be.

Those who ignored such warnings only had themselves to blame: *Punch* thought the ‘flats’ who fell victim to fraud ‘any day will walk into a bubble broker’s parlour – like the fly into the spider’s – if they fancy there is anything which they may gain by going there.’ Such people could not be protected by Act of Parliament: rather, they had to learn to protect themselves by reforming their behaviour. The same point can be made about novels and plays on the theme of speculation. Damning attacks continued to be made on company promoters in the 1860s and 1870s, most notably in Trollope’s *The Way We Live Now*. But, as was argued in chapter two, the main targets of these works were the greedy speculators themselves, rather than the rogues who exploited them: without the ‘flats’, the ‘sharps’ would go out of business. If the low morality of trade was due to the indiscriminate worship by the public of wealth and whoever possessed it, the only solution could be ‘a purified public opinion.’

By the late 1860s, joint stock companies had permeated the Victorian consciousness. Metaphors involving joint stock companies were beginning to be used to help make sense of political issues. For example, in 1866 a *Times* leader on parliamentary reform likened the

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139 *Judy*, 1 (7 Aug. 1867), p. 185.
140 *Punch*, 53 (16 Nov. 1867), p. 204.
voting public to a body of shareholders, and wondered whether the new voters would be willing to pay off the huge national debt run up before they had a say in politics. 'We are changing the whole constituency – that is, the body politic. The firm is changing its members, and its identity may be questioned. Will all the burdens and obligations of the old shareholders pass to the new?' While the frequent spoofs of company prospectuses in the satirical magazines indicate contempt for the joint stock system, they also suggest these companies’ arrival as fixtures of the nineteenth-century social scene, part of the Victorian mental furniture. In 1872, Carlyle thought that limited liability was entrenched in society, and that the culture of what he called 'promoterism' was here to stay, gloomily predicting in his last work that it 'would cost any Ministry its life in a day' to attempt to repeal the Limited Liability Laws. Company shares formed an ever-increasing percentage of the securities traded on the Stock Exchange, from less than a quarter in 1853, to almost one half in 1883:

**Fig. 5.10. Nominal Value of Securities Quoted on the Stock Exchange, 1853-83 (£)**

<table>
<thead>
<tr>
<th>Type of Security</th>
<th>1 Jan. 1853</th>
<th>1 Jan. 1863</th>
<th>1 Jan. 1873</th>
<th>1 Jan. 1883</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Stock</td>
<td>923,300,000</td>
<td>1,073,300,000</td>
<td>1,345,400,000</td>
<td>1,896,700,000</td>
</tr>
<tr>
<td>Percentage of whole</td>
<td>(76%)</td>
<td>(67%)</td>
<td>(59%)</td>
<td>(52%)</td>
</tr>
<tr>
<td>Company Shares</td>
<td>291,800,000</td>
<td>531,100,000</td>
<td>924,600,000</td>
<td>1,744,700,000</td>
</tr>
<tr>
<td>Percentage of whole</td>
<td>(24%)</td>
<td>(33%)</td>
<td>(41%)</td>
<td>(48%)</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>1,215,100,000</td>
<td>1,604,400,000</td>
<td>2,270,000,000</td>
<td>3,641,400,000</td>
</tr>
<tr>
<td></td>
<td>(100%)</td>
<td>(100%)</td>
<td>(100%)</td>
<td>(100%)</td>
</tr>
</tbody>
</table>


Despite the disapproval felt towards many companies after the crisis of 1866, companies were still associated in the public mind with technological innovation and social progress. The summer of 1866 saw the final successful stages of the laying of the Atlantic Telegraph. This was a timely reminder of what joint stock companies could achieve. Contemporaries were liberal with hyperbole. _The Times_ wrote, 'It is a great work, a glory to our age and nation, and the men who have achieved it deserve to be honoured among the benefactors of their race.' Drake told the 1867 Select Committee that if limited liability

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143 _The Times_, 19 Apr. 1866, p. 10.
were not generally available, 'we should not have telegraphic communication with America.'

But the principal reason for the less than sweeping reform following 1866 was the lack of will to alter the framework of company law where it mattered most: in Parliament. Here it was taken for granted that the best response to the events of 1866 was to allow companies even greater freedoms rather than to attempt to reform them.

146 Select Committee on the Limited Liability Acts, p. 42, q. 628.
Conclusion

In 1935, M. M. Postan commented that 'the story of the joint-stock company is too well known to require or to suffer any further explanation.' It is hoped that this thesis has refuted Postan, by exploring aspects of nineteenth-century attitudes to joint stock companies, and of the development of company law, which have hitherto been given insufficient attention by historians.

The thesis has attempted to provide an unprecedentedly thorough examination of attitudes to joint stock enterprise and speculation in company shares in early- to mid-nineteenth-century Britain, in order to indicate that these attitudes derived not from ignorance, prejudice, and self interest, but were based on a coherent and pervasive political economy. Hostility to, and suspicion of, joint stock enterprise cannot be pinned down to a single class or party in this period: these feelings cut across party lines in a remarkable way. Nor were they held solely by the political and legal establishments: they were equally discernable among merchants and manufacturers, and were expressed in a wide range of popular sources including newspapers, novels, cartoons, plays, and verse.

Given the widely-diffused abhorrence of joint stock enterprise and speculation, the legislation of 1844-56 requires some explanation. These measures, by creating a secure legal position for joint stock companies, encouraged the expansion of the corporate economy, and, by limiting the liability of investors, encouraged speculative activity. That this legislation was not the result of a natural and irresistible tide of reform is suggested by an examination of the largely unchanging legal status of companies in the first 40 years of the century. Booms in company promotion both during and after the Napoleonic Wars forced courts, Parliament, and governments to re-evaluate the legal framework within which companies operated, yet the results of these re-evaluations were slight. The courts, though expressing a certain degree of ambivalence, reaffirmed the illegality of unincorporated companies, while the repeal of the Bubble Act in 1825 and the reforms of the Whigs in 1834 and 1837 did little to change the way in which companies operated, or the relations between companies and the state. This stasis was mirrored by a consistency in popular attitudes to joint stock enterprise over these years.

The first break in these attitudes came with the Joint Stock Companies Act of 1844. While motivated in part by the growth of the size and importance of the joint stock economy over the preceding years, the Act was prompted more by a sense of the potential, than the actual, benefits to society of joint stock enterprise. Joint stock companies had not yet

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achieved respectability: indeed, the measure was promoted in order to try to impart respectability to these companies. By placing all such firms unambiguously within the protection of the law, it was hoped that the frauds which had enjoyed such a high profile in the immediately preceding years would be prevented. The Act was the first step towards the privatisation of the business corporation: privileges of incorporation hitherto carefully guarded by the state were made freely available. But the step was consciously partial: the state retained the privilege of granting limited liability, due to an awareness of the dangers posed to the public by companies trading with this privilege.

Soon after the passage of the Act came the great boom in railway enterprise of the mid 1840s. This boom undoubtedly popularised investment in limited companies, and familiarised large numbers with the ways of the Stock Exchange. But, contrary to the claims of some historians, it did not make the introduction of general limited liability an inevitability. Few doubted the utility of incorporating railway companies by the 1840s, but many questioned the wisdom of opening up trades hitherto seen as the preserve of private enterprise to the artificial competition provided by limited companies. Furthermore, the working of the Joint Stock Companies Act, rather than persuading people of the safety of conceding the final corporate privilege, seemed to many to have given extra facilities to fraud by lending companies an unearned sheen of state sanction. Although some called for the extension of limited liability, others argued that privileges should be made less freely available.

The early 1850s saw the boldest challenge yet to the orthodoxy on limited liability, a challenge brought about by a variety of factors. The Great Exhibition crystallised fears that Britain risked falling behind her rivals, all of whom enjoyed general limited liability, if she did not continue to innovate. The radicalism of working-class politics in the 1840s persuaded many that capitalism needed to be reformed to give workers a share in the profits of their labour. New attitudes to economic expansion made the prospect of growth promoted by bringing myriad small capitals into the market seem more attractive than ever before. These factors combined to create a new conceptual framework within which competition between corporate and individual enterprise, mass joint stock investment, and constant economic growth, were to be encouraged, and the incorporating role of the state to be scrapped. The calls for administrative reform inspired by the Crimean War provided the impetus for the state to adopt these proposals, and to grant general limited liability.

Palmerston’s government did not act in accordance with the undivided opinion of the country: indeed, traditional concerns regarding the effects of untrammelled joint stock enterprise continued to be expressed by significant elements of the business community, as well as by popular novelists and playwrights. The divide between governmental and popular
attitudes to joint stock enterprise seemed to be highlighted by reactions to the commercial crisis of 1866. Satirical magazines were laden with comments on the low morality which fed the speculation of the years leading up to the crash. Limited liability was largely held responsible, while hostility to company directors was strong. Yet these sentiments were not translated into a reform of the framework of company law, which in fact emerged from the crisis strengthened rather than undermined. This outcome becomes less surprising when the popular critiques of joint stock enterprise and speculation are examined in depth. Condemnations of joint stock morality almost exclusively posited the cure in terms of a reform not of commercial law but of personal behaviour. In true evangelical style, greedy investors had to learn to resist temptation, rather than have temptation removed. Thus, the gulf between governmental and popular attitudes was less wide than appearances suggested.

Underlying these changes was a reconceptualisation of the joint stock company, which has hitherto been insufficiently stressed by historians. The incorporated company, a creation of the state, imbued with special privileges exempting it from the normal laws of the land, shifted in the course of the period covered by this thesis from the public to the private sphere, becoming conceptually privatised. Limited liability, the most important of the privileges granted only in exceptional circumstances by the state, had become by the 1860s a commercial feature freely available to all but the smallest businesses. That incorporation was in the public interest, a point which had formerly to be proven before Parliament or the Board of Trade, was now assumed, provided the straightforward registration requirements could be met. The state's abdication of all discretion over incorporation could only be thought of as a straightforward measure of retrenchment if the power of limited liability was conceptualised as a natural right of debtors rather than a removal of the rights of creditors. But in the debates of the 1850s, this is exactly what happened, so that unlimited liability rather than limited liability came to be viewed as the unjust interference.

From this reconceptualisation emerged the legislation of the 1850s which effectively privatised the joint stock company. Hitherto, limited liability was granted only when the interference with the rights of creditors could be justified by the greater public interest. Now, limited liability was seen as an inherent right of businessmen which could not justly be denied by the legislature or the executive on any grounds. The crash of 1866 made many think that the unconditional grant of limited liability might have been hasty. But to restore previous controls was impossibly difficult, due to the belief that free access to limited liability was a natural right. Limited liability could not be curtailed or revised without this seeming like a monstrous imposition by the state. Once incorporation was established as a private right, not a privilege conferred by the public, to try to drag incorporation back into the public sphere was beyond the abilities of any would-be reformer in the 1860s, or beyond.
The subsequent history of the joint stock company confirms this interpretation. Corporate corruption and the degrading effects of speculation continued as common themes in late-Victorian fiction. The upsurge of company promotions in the 1890s, and the revelation of huge frauds deriving from these, prompted waves of hostile comment in the press. The language used in these condemnations was indistinguishable from that employed earlier in the century. In the aftermath of the Hooley scandal of 1898, for example, the *Spectator* commented that ‘The race for wealth is the great factor of our time’ and that ‘the growth of social morality has not kept pace with the growth of wealth.’ Yet, just as in 1867, the government proved unresponsive to such criticisms. No significant reforms followed a Select Committee on the Companies Acts in 1877 or a Royal Commission on the Depression of Trade and Industry in the mid 1880s. To try in any way to reclaim the public’s rights over incorporation was conceived as a massive interference in trade.

The will to reshape company law was entirely lacking, partly because of the reconceptualisation of the joint stock company; partly because the existing system was proving too financially rewarding for too many legislators. The presence of MPs on company boards, significant as early as the 1840s, continued to grow. By 1898, 293 MPs, 44 per cent of the House, were company directors, while the *Complete Peerage* of 1896 revealed that 167 peers, about a quarter of the whole, held directorates. The potential for corruption was sufficiently worrying for Gladstone to bind members of his 1892 Cabinet to divest themselves of their directorships on entering office. But Salisbury in 1895 did not follow this example. On coming to office, his Ministers held a total of 60 directorships. The repercussions of this corporate infiltration of Parliament were great: of the eleven members of an 1898 House of Lords Select Committee established to consider company law reform, seven were directors. Unsurprisingly, the ensuing Companies Act of 1900 achieved little.

Too many politicians were advancing up Bell’s *Ladder of Gold* for there to be any risk of serious intervention in the permissive legal framework within which companies operated. The conceptually-privatised company was as able to resist legislative interference with its actions as effectively as the private trader. The new dispensation was acidly observed

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by William Schwenck Gilbert in *Utopia Ltd*. The enterprising company promoter Mr Goldbury explains:

Some seven men form an Association,

(If possible, all Peers and Baronets)

They start off with a public declaration

To what extent they mean to pay their debts.

That’s called their Capital: if they are wary

They will not quote it at a sum immense.

The figure’s immaterial – it may vary

From eighteen million down to eighteenpence.

I should put it rather low;

The good sense of doing so

Will be evident at once to any debtor.

When it’s left to you to say

What amount you mean to pay,

Why, the lower you can put it at, the better.8

Disappointed creditors could always sing along.

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Bibliography

PRIMARY WORKS

(a) Unpublished

(i) Birmingham City Library
Birmingham Debating Society Records
Edgbaston Debating Society Records
Sunday Evening Debating Society Records

(ii) British Library
Aberdeen Papers
Gladstone Papers
Iddesleigh Papers

(iii) Centre for Kentish Studies
Maidstone Gas Company Records

(iv) London Guildhall Library
Union Society of London Records

(v) Public Record Office
Board of Trade Papers, BT1 (General In-Letters and Files); BT3 (General Out-Letters); BT4
(General Registers and Indexes); BT5 (Minutes); BT19 (Indexes)
Cardwell Papers

(b) Published

(i) Parliamentary Debates
Series one, two and three (1803-1867)
(ii) Parliamentary Papers

Bills:

A Bill to Alter and Amend an Act Passed in the 6th Year of the Reign of King George the First...and for the Prevention of Frauds in the Establishment of Joint Stock Companies, 1825 (253) I.139

A Bill to Amend an Act For Better Enabling His Majesty to Confer Certain Powers and Immunities on Trading and Other Companies, 1837-38 (572) VI.563

A Bill to Amend the Companies Act of 1862, 1866 (139) II.201

Committees and Commissions:

Select Committee on the Private Business of the House, 1824 (432) VI.497
Select Committee on the Arigna Mining Company, 1826-27 (234) III.37
Report on the Law of Partnership, 1837 (530) XLIV.399
Select Committee on Private Business, 1837-38 (679) XXIII.405
Select Committee on Private Business, 1839 (51) XIII.101
Select Committee on Joint Stock Companies, 1844 (119) VII.1
Select Committee on Private Bills, 1846 (550) XII.233
Select Committee on Railway Acts Enactments, 1846 (590) XIV.5
Select Committee on Investments for the Savings of the Middle and Working Classes, 1850 (508) XIX.169
Select Committee on the Law of Partnership, 1851 (509) XVIII.1
Royal Commission on the Assimilation of Mercantile Laws in the UK and Amendments in the Law of Partnership, as Regards the Question of Limited or Unlimited Responsibility, 1854 (1791) XXVII.445
Select Committee on the Limited Liability Acts, 1867 (329) X.393

Accounts and Papers:

Account Showing the Total Number of Petitions for Private Bills Presented to the House of Commons, 1825-29, 1829 (311.) XXI.53
Copy of the Minute of the Lords of the Committee of Privy Council for Trade, Dated 4 November 1834, on Granting Letters Patent, 1837 (337) XXXIX.287
Return Relating to Railway Bills, 1840 (545) XLV.261
Return of the Number of Railway Bills Brought into Parliament in Each Year Since 1839, 1843 (571) XLIV.43
Alphabetical List of the Names, Descriptions and Places of Abode of all Persons Subscribing to the Amount of £2,000 and Upwards to any Railway Subscription Contract Deposited in the Private Bill Office During the Present Session of Parliament, 1845 (317) XL.1

Alphabetical List of the Names, Descriptions and Places of Abode of all Persons Subscribing For Any Sum Less Than £2,000 to any Railway Subscription Contract Deposited in the Private Bill Office During the Present Session of Parliament, 1845 (625) XL.153

Return of Joint Stock Companies Registered Under 7 & 8 Vict. c. 110, 1845 (577) XLVII.1

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(iii) Court Cases

Rex v. Dodd (1808), 9 East. 517, 103 ER 670
Buck v. Buck (1808), 1 Camp. 548, 170 ER 1052
Rex v. Stratton (1809), 1 Camp. 549, 170 ER 1053
Metcalf v. Bruin (1810), 12 East. 400, 104 ER 156
Rex v. Webb (1811), 14 East. 406
Pratt v. Hutchinson (1812), 15 East. 511, 104 ER 936
Kidwelly Canal Company v. Raby (1816), 2 Price 93, 146 ER 32
Ellison v. Bignold (1821), 2 Jac. & W. 503, 37 ER 720
Josephs v. Pebrer (1825), 3 B. & C. 639, 107 ER 870
Kinder v. Taylor (1825), 3 Law Journal Reports 68
Van Sandau v. Moore (1826), 1 Russ. 441, 38 ER 171
Duvergier v. Fellows (1828), 5 Bing. 248, 130 ER 1056

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Doubleday v. Muskett and Lousada (1830), 7 Bing. 110, 131 ER 43
Walburn v. Ingilby (1833), 1 Mylne and Keen 62, 39 ER 605
Williams v. Beaumont (1833), 10 Bing. 260, 131 ER 904
Blundell v. Winsor (1837), 8 Sim. 601, 59 ER 238
Shrewsbury v. Blount (1841), 2 Man. and Gr. 475, 133 ER 836
Garrard v. Hardey (1843), 5 Man. and Gr. 471, 134 ER 648
Harrison v. Heathorn (1843), 6 Man. and Gr. 81, 134 ER 817
Richardson v. Larpent (1843), 2 Younge and Collyer 507, 63 ER 227
Colman v. Eastern Counties Railway Company (1846), 10 Beav. 1, 48 ER 481
Hallet v. Dowdall (1852) 21 L. J. Q. B. 98
Sea, Fire, and Life Assurance Co (1854), 3 De G., M. & G. 477, 43 ER 180

(iv) Acts of Parliament
6 Geo. I, c. 18 (1720)
6 Geo. IV, c. 91 (1825)
7 Geo. IV, c. 46 (1826)
3 & 4 Will. IV, c. 98 (1833)
4 & 5 Will. IV, c. 94 (1834)
1 Vict., c. 73 (1837)
1 & 2 Vict., c. 10 (1838)
7 & 8 Vict. c. 110 (1844)
18 & 19 Vict. c. 133 (1855)
19 & 20 Vict. c. 47 (1856)
21 & 22 Vict. c. 91 (1858)
25 & 26 Vict. c. 89 (1862)
30 & 31 Vict. c. 131 (1867)

(v) Newspapers and Periodicals
All the Year Round
Annual Register
Bentley's Miscellany
Blackwood's Edinburgh Magazine
Circular to Bankers
Cobbett's Weekly Register
Companion to the Almanac; or Year-Book of General Information

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(vi) Books and Articles
Anon., *An Account of the South Sea Scheme and a Number of Other Bubbles...With a Few Remarks Upon Some Schemes Which Are Now in Agitation* (London: J. Cawthorne, 1806)

——— ["Philopatris"], *Observations on Public Institutions, Monopolies, Joint Stock Companies, and Deeds of Trust: Shewing the Advantages the Public Derive From Competition in Trade* (London: J. M. Richardson, 1807)
Exposure of the Stock Exchange and Bubble Companies (London: Piper, Stephenson, & Spence, 1854)

Commercial Morality; Or, Thoughts for the Times (London: Smith, Elder and Co, 1856)

Archbold, John Frederick, The Law of Limited Liability, Partnership, and Joint-Stock Companies (London: Shaw & Sons, 1855)

Argyll, Duke of, The Unseen Foundations of Society: An Examination of the Fallacies and Failures of Economic Science Due to Neglected Elements (London: John Murray, 1893)

Aytoun, William, 'How We Got Up the Glenmutchkin Railway, and How We Got Out of It', Blackwood's Edinburgh Magazine, 58 (Oct. 1845), pp. 453-67


Barrow, John, 'Canals and Rail-Roads', Quarterly Review, 31 (Mar. 1825), pp. 349-78

Bell, Robert, The Ladder of Gold, An English Story, 3 vols (London: Richard Bentley, 1850)


Bourcicault, Dion, The School for Scheming (London: National Acting Drama Office, 1847)

Bray, John F., Labour's Wrongs and Labour's Remedy; Or, the Age of Might and the Age of Right [1839] (London: Cass, 1968)

Burchell, James, The Joint Stock Companies Registration Act (London: Henry Butterworth, 1844)

Byron, Henry J., A Hundred Thousand Pounds (London: S. French, 1866)


Carlyle, Thomas, Past and Present [1843] (London: Routledge, 1895)


——— Last Words of Thomas Carlyle - On Trades-Unions, Promoterism and the Signs of the Times (Edinburgh: William Paterson, 1882)

Cobbett, William, Advice to Young Men, and (Incidentally) to Young Women, in the Middle and Higher Ranks of Life [1829] (London: Henry Frowde, 1906)

Cockton, Henry, George St. George Julian, the Prince (London: Grattan & Gilbert, 1841)

*Companies, etc. Tracts. Bound Collection of Prospectuses and Related Material, British Library*  

Cox, Edward W., *The Joint Stock Companies Act 1856, For the Regulation of Companies With or Without Limited Liability* (London: Law Times Office, 1856)  


Cumming, Rev. John, ‘The Age We Live In’, in *Lectures Delivered Before the Young Men’s Christian Association 1847-8* (London: Benjamin L. Green, 1848)

Dance, Charles, *The Stock Exchange, or the Green Business* [1858], in *Lacy’s Acting Edition of Plays, Dramas, Farces, Extravaganzas, etc*, 36 (London: Thomas Hailes Lacy, n.d.)

——— *Critical Examination of Such of the Clauses of the Act of 6th of George I as Relates to Unlawful and Unwarrantable Projects: Demonstrating That the Present Joint Stock Companies are Neither Within the Letter Nor Spirit of That Act* (London: Longman, 1808)

——— *Little Dorrit* [1857] (London: Everyman, 1992)  

[Disraeli, Benjamin], *An Inquiry into the Plans, Progress, and Policy of the American Mining Companies*, third edition (London: John Murray, 1825)  
——— *Lawyers and Legislators: or Notes on the American Mining Companies* (London: John Murray, 1825)  
——— *The Present State of Mexico* (London: John Murray, 1825)  
——— *Letters: 1815-1834* (Toronto: University of Toronto Press, 1982)

[Eden, Frederick], *On the Policy and Expediency of Granting Insurance Charters* (London: Burton, 1806)


—— *A Compendium of Useful Information Relating to the Companies Formed for Working British Mines...With General Observations on their Progress* (London: Boosey & Sons, 1826)

—— *A Complete View of the Joint Stock Companies Formed during the Years 1824 and 1825* (London: Boosey & Sons, 1827)

*English Cartoons and Satirical Prints, 1320-1832*, microfilm


[Evans, David Morier], *The City; Or, the Physiology of London Business* (London: Baily Brothers, 1845)


—— *Hints, By Way of Warning, on the Legal, Practical, and Mercantile Difficulties Attending the Foundation and Management of Joint Stock Banks* (London: Pelham Richardson, 1833)


Hartnoll, J. Hooper, *A Letter to the Right Hon. E. Cardwell, M.P., President of the Board of Trade, on the Inoperative Character of the Joint Stock Companies Registration Act, as a Means of Preventing the Formation of Bubble Assurance Companies, or of Regulating the Action of those Honourably and Legitimately Instituted*, second edition (London: W. S. D. Pateman, 1853)


Hemyng, Bracebridge, *The Stockbroker's Wife and Other Sensational Tales of the Stock Exchange* (London: John and Robert Maxwell, 1885)

Hobart, Lord, *Remarks on the Law of Partnership Liability* (London: John W. Parker and Son, 1853)


Howard, Dr Edward, *True Forgiveness: A Drama in Three Acts (Illustrating the Commercial Crisis of 1866)* (London: Thomas Hailes Lacy, 1870)


[Lardner, Dionysius], ‘Railways at Home and Abroad’, *Edinburgh Review*, 84 (Oct. 1846), pp. 479-531


Lewis, George Henry, *The Liabilities Incurred by the Projectors, Managers and Shareholders or Railway and Other Joint-Stock Companies Considered: And Also the Rights and Liabilities Arising From Transfers of Shares* (London: Smith, Elder, and Co, 1845)


——— *The Liverpool Stock Exchange Considered; With Suggestions for its Re-Construction on a Safe Footing* (Liverpool: G. & J. Robinson, 1845)


MacFarlane, A., *Railway Scrip; Or, the Evils of Speculation: a Tale of the Railway Mania* (London, Ward and Lock, 1856)


[McCulloch, John Ramsay], ‘Joint-Stock Banks and Companies’, *Edinburgh Review*, 63 (Jul. 1836), pp. 419-41

——— *Considerations on Partnerships with Limited Liability* (London: Longman, 1856)


——— ‘How we “Floated” the Bank’, *All the Year Round*, 12 (31 Dec. 1864), pp. 493-7

——— ‘How the Bank Came to Grief’, *All the Year Round*, 13 (25 Feb. 1865), pp. 102-6

——— ‘How the Bank was Wound Up’, *All the Year Round*, 13 (15 Apr. 1865), pp. 276-82

——— ‘Insurance and Assurance’, *All the Year Round*, 13 (3 Jun. 1865), pp. 437-42

——— ‘‘The Bank of Patagonia” (Limited)’, *All the Year Round*, 13 (17 Jun. 1865), pp. 485-90

——— ‘Amateur Finance’, *All the Year Round*, 14 (12 Aug. 1865), pp. 56-60

——— ‘Starting the Rio Grande Railway’, *All the Year Round*, 14 (11 Nov. 1865), pp. 368-72


[Morley, Henry], ‘The Penny Saved; A Blue-Book Catechism’, *Household Words*, 2 (19 Oct. 1850), pp. 81-4

238
Morris, A. J., *Religion and Business; or, Spiritual Life in one of its Secular Departments* (London: Ward and Co, 1853)


[Mundell, Alexander], *The Principles Which Govern the Value of Paper Currency, With Reference to Banking Establishments* (Edinburgh: Waugh and Innes, 1823)


[Patterson, R. H.], ‘The Panic in the City’, *Blackwood’s Edinburgh Magazine*, 100 (Jul. 1866), pp. 78-93


[Sala, George], ‘The Golden Calf’, *Household Words*, 10 (23 Dec. 1854), pp. 437-41


Smiles, Samuel, *Character* [1871] (London: John Murray, 1882)

——— *Thrift* [1875] (London: John Murray, 1882)


Stirling, Edward, *The Railway King! A Laughable Farce, In One Act* (London: Duncombe, 1845)


Trafford, F. G., *City and Suburb*, 3 vols (London: Charles J. Skeet, 1861)

——— *George Geith of Fen Court* [1864] (London: Tinsley Brothers, 1865)


SECONDARY WORKS

(a) Books, Articles, and Theses


Blake, Robert, *Disraeli* (London: Eyre & Spottiswoode, 1966)


——— *Progress and Poverty: An Economic and Social History of Britain 1700-1850* (Oxford: Oxford University Press, 1995)


Devine, T. M., and Dickson, David (eds), *Ireland and Scotland 1600-1850: Parallels and Contrasts in Economic and Social Development* (Edinburgh: John Donald, 1983)


Ellegard, Alvar, *The Readership of the Periodical Press in Mid-Victorian Britain* (Goteborg: Almqvist & Wiksell, 1957)


Flint, Kate, The Victorians and the Visual Imagination (Cambridge: Cambridge University Press, 2000)


Freeman, Michael, Railways and the Victorian Imagination (New Haven: Yale University Press, 1999)


Gambles, Anna, Protection and Politics: Conservative Economic Discourse, 1815-1852 (Woodbridge: Boydell, 1999)


Gray, Donald J., ‘A List of Comic Periodicals Published in Great Britain, 1800-1900’, Victorian Periodicals Newsletter, 15 (1972), pp. 2-39


—— ‘Capitalism Without the Capitalist: the Joint Stock Company Share and the Emergence of the Modern Doctrine of Separate Corporate Personality’, *Legal History*, 17 (1996), pp. 41-73


—— ‘The Denomination and Character of Shares, 1855-85’, *Economic History Review*, 16 (1946), pp. 45-55


—— *Business and Religion in Britain* (Aldershot: Gower, 1988)


—– *The First Industrial Nation* (London: Methuen, 1969)


———, 'The Coming of Joint-Stock Banking in Scotland and Ireland, c. 1820-1845', in Devine, T. M., and Dickson, David (eds), *Ireland and Scotland 1600-1850: Parallels and Contrasts and Economic and Social Development* (Edinburgh: John Donald, 1983), pp. 204-18


Oppenlander, Ella Ann, *Dickens' 'All the Year Round': Descriptive Index and Contributor List* (Troy: Whitson Publishing Company, 1984)


——— *Entrepreneurial Politics in Mid-Victorian Britain* (Oxford: Oxford University Press, 1993)

——— ‘The First Five Thousand Limited Companies and their Duration’, *Economic History*, 3 (1932), pp. 396-424
Slaven, Anthony, and Aldcroft, Derek H., (eds), *Business, Banking and Urban History: Essays in Honour of S. G. Checkland* (Edinburgh: John Donald, 1982)
Smith, Grahame, and Smith, Angela, ‘Dickens as a Popular Artist’, *The Dickensian*, 67 (1971), pp. 131-44
Steig, Michael, ‘*Dombey and Son* and the Railway Panic of 1845’, *The Dickensian*, 67 (1971), pp. 145-8


Walvin, James, *Victorian Values* [1987] (Harmondsworth: Cardinal, 1988)


