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Parliamentary Images of Corporate Financial Reporting: 1844 to 1985

by

Gerard McHugh

A Doctoral Thesis

Submitted in partial fulfilment of the requirements for the award of the degree of

Doctor of Philosophy of

Loughborough University

August 2000

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Abstract

The development of statutory legislation governing financial reporting by British companies between 1844 and 1985 is the primary concern of this thesis. The period begins with the passing of the first Joint Stock Companies Act in 1844, which permitted incorporation by a simple process of registration, and ends with the most recent consolidation of company law in 1985. The basic premises upon which the thesis builds are: (i) that mental images or conceptual frames lead us to understand the world in distinctive yet partial ways; and (ii) that various outcomes flow from these conceptualisations – in other words, that images do have effects (Morgan, 1986). The thesis uses these insights to explore the idea that a key to understanding the different styles of corporate financial reporting legislation through time might be the imagery that shaped Parliament’s thinking about corporate financial reporting.

Through an examination of the legislative discourse that accompanied the development of all significant companies legislation enacted between 1844 and 1985 (i.e. committee reports and accompanying submissions, draft bills, parliamentary debates and statutes), three distinct parliamentary images which shaped the corporate financial reporting rules contained in that legislation are identified. These images are: corporate financial reporting as revelation 1844-1900, corporate financial reporting as assurance 1900-1940, and corporate financial reporting as advice 1940-1985. The thesis documents the evidence for each of these images and demonstrates the influence of each image on the legislation.

The thesis also provides a preliminary assessment of the power of the concept Parliamentary Image, to explain the changes in the style and complexion of corporate financial reporting legislation through time, by comparing it with competing explanations. Three competing explanations are examined: those that appeal to ideological, economic, and class variables respectively. The thesis concludes that parliamentary images do have explanatory power and that the concept may provide the building block for a more comprehensive theory of legislative change.
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At home, my beloved wife Tina provided endless personal and emotional support and, in the latter stages, she single-handedly looked after our six children, Jack, Harry, Tom, Sally, Fred, and Bill. It is to my family that I dedicate this work.
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CHAPTER ONE

SETTING THE SCENE
An Introduction to the Thesis

If every author were required to print a correct account of his cerebral development in his preface, a great saving of discussion might be effected.

[The Phrenological Journal and Miscellany, 3 (1825-26), 51]

I

Introduction

The development of statutory legislation governing corporate financial reporting by British companies between 1844 and 1985 is the primary concern of this thesis. The period begins with the passing of the first general Joint Stock Companies Act in 1844, which permitted incorporation by a simple process of registration; and ends with the most recent consolidation
of company law in 1985. An especially interesting feature of financial reporting legislation enacted during this 150-year period is the degree of variation in the style and orientation of the reporting provisions that can be discerned. The variation in style prompts questions regarding the rationales that were framing the legislation. This thesis explores the idea that a key to understanding the variation in the style of legislation might be the imagery that shaped Parliamentary thinking about corporate financial reporting. The concept of parliamentary image is developed in the thesis to illustrate that the Legislature did, in fact, conceptualise corporate financial reporting in distinctly different ways throughout the period under examination. The parliamentary image concept is used in the thesis in two ways. First, it is used as a narrative device to structure a legislative history of corporate financial reporting legislation between 1844 and 1985. Simultaneously, it is used as an explanatory variable to explain the variation in the style of the legislation enacted during this same period.

In this introductory chapter, I explain how I came to study this topic, and how I transformed the questions that interested me into a research project. I also say a little about the contribution that it makes, and I chart the structure of the thesis. It will, I hope, become clear that this research endeavour has been a very personal journey; an attempt to explore an idea and at the same time to establish a research proficiency in the legislative history of corporate financial reporting. The conceptual and interpretative style of the work has meant that in many parts of the thesis the only convenient way of writing has been to write in the first person. I have followed a convention of depersonalising the language except where this seemed nonsensical or resulted in a style that was too laboured.
Several years ago, I was invited to conduct a modest research assignment in connection with a high-profile auditor negligence lawsuit. The litigation concerned the Insurance Corporation of Ireland Plc. (ICI), a publicly quoted insurer that was discovered to be insolvent shortly after it had been acquired by Allied Irish Banks Plc, one of Ireland's largest financial institutions. The insurance company's outstanding liabilities were so large that its insolvency threatened to undermine the Bank and ultimately to destabilise the Irish financial system.

It was accepted by the parties to the litigation that the statutory financial statements presented by ICI for several years prior to its being acquired had not presented a true and fair view of the insurer's financial position. Allied Irish Banks, claiming to have relied on those statutory financial statements in making its acquisition decision, instituted a negligence action against Ernst & Whinney, Chartered Accountants, the firm that had acted as auditors to ICI. In 1993, moments before the action was due in court, a settlement was reached between the litigants.

My assignment had been to prepare a briefing paper for the plaintiff's legal team that explained the purpose(s) of statutory financial statements and, more particularly, that considered the reasons why the Irish Parliament had mandated their presentation to shareholders. In view of the Irish Parliament's central role in regulating the presentation of statutory financial statements, the plaintiff's lawyers had expected that the question of Parliament's intentions in mandating financial statement disclosure would be a key issue of dispute between the litigants. The operative legislation was the Companies Act 1963, an Irish

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1 In the event, the Irish Government stepped in to protect the Bank and those who held the insurance policies.
2 Readers may recognise that this case bore the hallmarks of the famous Caparo case decided in Britain in 1989. In Caparo, the House of Lords held inter alia, that the purpose of statutory accounts is to assist shareholders exercise their rights in questioning directors at the Annual General Meeting and not to
Act that is almost an exact copy of the UK Companies Act 1948. Prior to 1963, the operative legislation in Ireland was the UK Companies Act 1908, an act that had been passed when what is now the Republic of Ireland was still a part of the United Kingdom. In light of this, my investigation quickly broadened to include the deliberations of UK legislators within its scope. In the course of my search to unearth the UK Parliament’s intentions, I examined many UK bills, acts, parliamentary debates and legal judgements. One passage however, captured my imagination and niggled away for months after I had completed the assignment. It was the following contribution from Mr. Brendan Bracken, His Majesty’s opposition spokesman for Trade and Industry, during the House of Commons debate on the Companies Bill 1947:

It is not well known that it was not until 1928, that the keeping of accounts was specifically laid upon companies as a statutory duty. The 1928 Act left the important matter of profits in a very unsatisfactory condition. For instance no auditor was required to certify the profit and loss account. Nothing in the Act prescribed how profits should be defined or set out. In the case of a holding company, there was no requirement that the amount of the subsidiary company’s profits should be disclosed. Under the present Companies Bill, auditors must certify the profit and loss account. The way profits must be disclosed, and deductions from them, item by item, is laid down specifically in Schedules to the Bill. In the case of holding companies, aggregate group profits must be revealed. **Who can doubt that we are making good the omissions of Victorian and Edwardian legislators?** (emphasis added)

[Hansard, Official Report, HoC, 6th June 1947, Col. 606]
That final phrase - *making good the omissions of Victorian and Edwardian legislators* - impacted upon me in ways that I acknowledge could not have been intended or anticipated. I reacted against it, reading it as somewhat arrogant, dismissive, and even a little insulting to earlier legislators. It ran counter to my common sense belief that each age should be interpreted in terms of its own ideas and principles, and that the actions of our forebears should not be criticised by reference to today’s values. Admittedly, I was not so blind that I could not recognise Mr. Bracken’s rhetoric for what it was. Nor was I such a relativist that I could not appreciate that legislators can and do get things wrong. That said, the passage troubled me enough for me to want to know whether Mr. Bracken’s claim was a reasonable one. Were the Victorians and Edwardians poor legislators where matters of company law were concerned? In a nutshell, this is how the present research endeavour began – Mr. Brendan Bracken’s off-the-cuff remark propelled me in a research direction that has occupied me for the last five years and from which this thesis is the main outcome.

III

Defining the Scope of the Research Project

There have been many moments during the course of this research when I have asked myself why I was drawn to defend the record of Victorian and Edwardian legislators! There is no disputing that these legislators made some very intriguing decisions indeed about company law in general and financial reporting in particular. Hunt (1936), for example, records that despite the infamous prohibition on incorporation enacted in the Bubble Act of 1720, the UK Parliament still agonised over proposed legislation to permit freedom of incorporation in 1844 - long after the benefits of incorporation had been demonstrated in France and the United States. Similar trauma attended the proposed legislation extending limited liability to the general body of companies in 1855.
On the corporate financial reporting front, the story was the same. In the Joint Stock Companies Act, 1856 for example, Parliament de-mandated the entire financial reporting, auditing, and public filing regulations that had been enacted under William Gladstone's guidance in the Joint Stock Companies Act, 1844. A further consolidation of the law in 1862, left things as they were until 1900 – i.e. there were no statutory financial reporting obligations placed upon the general body of companies. In 1900 Parliament reintroduced the mandatory auditing requirement, and in 1907 it reintroduced the public filing requirement. Even then, the Companies Act 1907, which mandated that public companies file a balance sheet with the Registrar of Companies, omitted to specify that the balance sheet should be the most recent, resulting in the notorious practice whereby some companies filed the same out-of-date balance sheet year after year. Then, in 1928, the Parliament fought bitterly over whether consolidated accounts should be demanded of holding companies (ultimately deciding that they should not), and Bracken's specific criticism that the Companies Act 1928 had done nothing to define profit (despite significant urging by His Majesty's Opposition that it should) was entirely correct. All the surface evidence suggested that corporate financial reporting legislation was quite idiosyncratic. Perhaps Bracken was right after all?

But, Bracken was only the bait so to speak. No sooner had I begun to explore his criticism of Victorian and Edwardian legislators than the really difficult questions began to surface. Had the style of corporate financial reporting legislation really changed over time? More specifically, how had legislators viewed the role and purpose of corporate financial reporting in the economy? Had that view changed over time and, if so, how and why? Why had Parliament repealed Gladstone's regulations in 1856? Why had Parliament reintroduced mandatory audit in 1900 but not public filing? Who had been advising? Who had been exerting influence and in whose interests? In short, my questions were targeting the very core

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5 See the Report of the Company Law Amendment Committee, 1926, Cmnd. 2657, para. 70.
6 The Labour Party was in opposition and its role in the enactment of the Companies Act, 1928 is discussed in detail in Chapter 5 of the present thesis.
of the process by which financial reporting rules came to be legislated for. Very crudely, I wanted to know how corporate financial reporting legislation had become what it had become.

I began my investigation into this marginally more focused question in the accounting literature – keen to discover how much was really known about the legislative history of the corporate financial reporting provisions contained in companies legislation. I discovered that the professional accounting literature traditionally carries quite detailed commentaries on the specific accounting, financial reporting and auditing provisions of the various companies acts – usually by way of commentary at the bill stage or following enactment of a statute. These commentaries are designed primarily to convey practical professional advice and, understandably, they avoid any systematic theorising about the style of the financial reporting provisions contained in the specific enactments.

The accounting research literature was marginally more helpful; it contained a small number of what might loosely be called theoretical frameworks that linked the general complexion or style of company law with prevailing political and economic doctrines. The best known of these frameworks is the idea that the political-economic doctrine of laissez-faire accounts for the State’s preference for minimal intervention in the regulation of companies during the nineteenth century, whereas the collectivism of the twentieth century explains the comparatively stronger preference for State intervention that we experience today (Edey and Panitpakdi 1956; Cottrell, 1980; Parker, 1990). Interestingly, this strand of research is currently undergoing something of a renaissance (Jones and Aiken, 1995; Walker, 1996; Jones, 1999). To date, however, the primary focus of most of this work has been on the complexion of companies legislation and, only secondarily, on the complexion of the specific financial reporting provisions contained therein. The accounting research literature also contains a small number studies focussed on single enactments, such as Bircher’s study of the
Board of Trade's company law archive during the years leading up to the Companies Act 1947 and Cowton's study of the political intrigue surrounding the enactment of provisions mandating disclosure of political and charitable donations in the Companies Act 1967 (Bircher, 1988; Cowton, 1989). These latter studies contain very important historical detail, but they do not attempt a more general theoretical synthesis.

While many of the scholarly accounting studies dealt with questions that were relevant to my concerns, there were very few insights into the role that Parliament had played in the enactment of company law. In other words, there was little analytical work that examined companies legislation or its financial reporting provisions from Parliament's point of view - if such a view can even be said to exist. The legislative process was something of a black box. Nobody seemed to be asking what Parliament was thinking when it enacted financial reporting rules - and this was the question that was really beginning to excite me.

Given the clear legislative direction in which my thoughts were headed, the obvious next step was to see whether legal scholars had devoted any attention to these questions. I had little difficulty putting together a comprehensive chronology of companies legislation (see Appendix A) but, again, there was little that really dealt with the parliamentary rationales behind specific companies acts to say nothing of their financial reporting provisions. I soon formed the view that, as a general rule, British legal scholars do not venture much into the realm of corporate financial reporting and accounting scholars rarely venture into the world of the law.7

7 Freeman and Power (1991) suggest that a possible reason for the absence of substantial interdisciplinary work between law and accounting might be due to fundamental differences in analytical styles which have their basis in varied historical, cultural and educational patterns of development (p:770). This contrasts with practice in the United States where many legal scholars write on matters to do with the legislative basis of corporate reporting, financial disclosure and auditing.
The economics literature – specifically the economics of regulation – had more to offer. Following the seminal work of the political scientists, Duncan Black and Mancur Olsen, the modern field of study known as Public Choice has been researching questions of interest group action within the legislative process for over 40 years (Black, 1958; Olsen, 1965; Stigler, 1971; Posner, 1974). Public choice economists view the legislative process as a competition for wealth transfers between businessmen, individuals, bureaucrats and politicians (Black, 1996: 700). From a public choice perspective, the study of the legislative process therefore involves unearthing the rival rent-seeking groups and other vested interests that seek to influence legislative outcomes. Public choice theory has been applied to study the passage of both private sector regulation and public legislation (Shughart, 1988; Macey and Miller, 1991). However, despite some notable analyses of the mandatory disclosure rules contained in United States securities laws (Easterbrook and Fischel, 1984; Coffee, 1984; Mahoney, 1995), public choice theory has not yet been used to any significant degree to study British companies legislation.

So, where did this leave me? First, I was beginning to sense that we knew next to nothing about the legislative history of corporate financial reporting. Second, nothing that I had read in either the accounting, legal or economic literatures had diverted me from my fundamental belief that it would be appropriate, historically important, and extremely interesting to ask what Parliament was thinking when it enacted the corporate financial reporting legislation that governs modern limited liability companies. This was the earliest formulation of my research question.

I set only one pre-condition when I began to develop the research proposal in more detail - this was that my study should cover an extended period of time rather than focus on a single

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8 The so-called positive accounting theorists have applied public choice theory. However, as I make clear in Ch. 2, the focus to date has been more on private sector regulation than on statutory legislation.
legislative issue or enactment. I set this pre-condition for three reasons. First, I could see that, in turning my attention towards the historical development of corporate financial reporting legislation, I was entering a field of study in which I had very little training. Consequently, I did not wish to run the risk of selecting a narrowly-defined legislative issue only to discover a year or so into the research that an adequate analysis had already been provided of which I had been unaware. Second, at the time I was developing the proposal, a number of experienced accounting historians had just published or were preparing to publish fairly focussed single-issue studies. I have in mind studies such as: Jones and Aiken's examination of the significance of the profit and loss account in the nineteenth century; Bryer's study of the legislative history of the Limited Liability Act 1855; Walker's study of the legislative history of the Companies Act 1879; and Maltby's study of the Companies Act 1856 (Jones and Aiken, 1994; Bryer, 1997; Walker, 1996; Maltby, 1999). I did not wish to run the risk of studying a narrowly-focussed topic that might be near to completion at the hands of a more experienced historian. Third, the gap that I could see in the accounting literature - and the one that I was most anxious to fill - was the absence of a longitudinal monograph on the legislative history of corporate financial reporting in Britain that spanned the entire period from the earliest general Joint Stock Companies Act in 1844 until the most recent consolidation of company law in the Companies Act 1985.

I soon discovered that a broad sweeping synthesis of the type that I envisaged was probably the most difficult historical study to write. To grasp an entire period, unravel its complexity, transcend it, and re-present a coherent account of that period required, I soon learned, at least two things: a documentary or evidential base of reasonably consistent quality covering the entire period of interest and an incredibly robust theoretical structure. I was fortunate that the University Library at Trinity College, my home institution, contained substantial British legal

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9 There is a greater risk of this in historical enquiry than in more mainstream areas of study. This is because the length of time taken to complete historical studies and the nature of the work itself can mean that the first one hears of them is when they have been completed.
and parliamentary holdings because of the *deposit library status* granted it under a British Act of Parliament in 1801. Most of the material is hard bound and has special handling conditions attaching to it— but at least it is accessible.

The *theoretical* structure was a bigger challenge. As a *nominal* social scientist, I initially devoted all my attention to searching for a single theoretical schema that would be robust enough to *carry* the entire 150-year history of financial reporting legislation. My search for this became an obsession and continued to trouble me long after I had abandoned any hope of finding it. Let me explain this a little more fully. As will become clear in Chapter 2, by the time I had reviewed the meagre published literature on the legislative history of corporate financial reporting, I knew that none of the extant theoretical frameworks really suited my purpose. True, these frameworks had provided some very useful insights into both general and fairly tightly-defined questions of legislative change, but I doubted that they would be robust enough to explain the various nuances of corporate financial reporting legislation enacted throughout the entire period from 1844 to 1985. I was also fairly sure that I did not want to take the next most obvious research step, which was to devise a test to evaluate the explanatory power of the various competing theoretical frameworks. Again, this would have required a single-enactment study of the kind that I was keen to avoid.

At some point—I can hardly recall the precise moment now— though I attribute it to reading Boyd Hilton’s hugely influential 1988 book *The Age of Atonement: The Influence of*...

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10 Trinity College library has the right to claim all British and Irish publications under the terms of successive Copyright Acts. The privilege was first given in the year 1801 (41 Geo. III, c. 107). The latest act for British books is 1911 (I and II Geo. V, c. 46). By the Industrial and Commercial Property (Protection) Act of the Irish Free State 1927, the copyright privilege of the library was continued in respect of books published in Ireland. It is continued under the terms of the Copyright Act, 1963.

11 I should point out that I gave this possibility a great deal more thought than this statement suggests. In the end there were really two reasons for not going down this road. First, I believed that studying a single enactment was too risky for the same reasons mentioned above. Second, I doubted whether the documentary sources that I possessed were sufficiently detailed to permit a sophisticated modelling of private and public interests. Now that this thesis is complete, I would feel more confident about embarking on such a study.
Evangelicalism on Social and Economic Thought 1785-1865), I realised that I was not going to find a neat theoretical structure – an explanatory model that would carry the story of the progress of corporate financial reporting legislation for the entire period 1844 to 1985. Hilton recounts how during the course of writing his doctoral thesis on the topic of the Tory Government’s economic policy between 1815 and 1830, he painstakingly examined the entire range of factors that are posited to influence government policy choices such as: economic doctrine, public interest, private interest, ministerial and parliamentary manoeuvre, and extra-parliamentary lobbies. None of these factors seemed to explain the policy choices that had been made. Most policies, he concluded, seemed to result from the pragmatic responses of officially-minded ministers faced with practical problems like those of food supply, monetary instability, public indebtedness, etc. (Hilton, 1988: vii).

Having completed his thesis, Hilton remained somewhat dissatisfied with his conclusion because, as he explains, his years of cohabitation with the Tory ministers of the period had left him with the strong impression that they were temperamentally different from those who had preceded them. Hilton was convinced that there was something more general to be said about government thinking during the period even if it could not explain everything. From this insight was born his notion of an evangelical ideology, a notion that he subsequently went on to operationalise in the 1988 book to which I have referred, in order to explain the style of much early nineteenth century government economic policy. Hilton does not claim that evangelical ideology is the key to unlocking all the secrets of government policy formation in the first half of the nineteenth century merely that it contributed more than classical economics or utilitarianism to the formation of the public morality from which economic policy emerged and by which it was sanctioned (Hilton 1988: viii).

12 Hilton’s book was universally acclaimed on publication. Daniel Pals reviewing the book for Church History commented thus: ‘Once the envy subsides, religious historians who open this extraordinary and arresting book will be strongly tempted to read it twice – once for the persuasive argument...a second time for the sheer pleasure of observing intellectual history practised at the very highest levels of insight and erudition...no subsequent discussion of society or religion in the age can properly begin without it.’
I learned two very important lessons from Hilton’s book. Firstly, I realised that there was no shame in not having a grand theoretical scheme around which to build my history of financial reporting legislative change. By comparison with the study of economic policy formation, the legislative history of corporate financial reporting is in its infancy. Economic policy formation has been the subject of scholarly enquiry in the modern sense for well over a century. Yet, even in this field of enquiry, all-embracing explanatory models are elusive. If historical enquiry can be characterised as a series of stages building from (say) a level of cases through to some ideal level of unity, then the legislative history of corporate financial reporting might be described as pre-historical.13 Arguably, accounting historians are only beginning to recognise that the legislative history of corporate financial reporting is interesting in its own right. The second lesson I learned was that the absence of a grand theoretical structure does not imply an absence of theory – this is I hope, a theoretically-informed enquiry.

If Hilton’s book released me from one set of concerns, it also presented a challenge. If my history was to rise above chronology, it still needed a structure. Instead of insisting on having an explanatory schema at the outset, I realised that what I needed was a thematic schema – a schema that would be coherent enough to carry the narrative, but the primary purpose of which would be to describe and to illuminate a dimension of the legislative history of corporate financial reporting. I did not abandon all hopes of building an explanatory framework but I wanted this to be a secondary concern. The challenge was to find an imaginative way of structuring a history that made a measurable contribution to our understanding of the dynamics of legislative change.

I knew that the schema I needed was not available in the accounting, legal or historical literature that I had been reading. I was some way into this research; chronicling, reading and assimilating the various legislative enactments when I hit on the schema that would enable me

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13 I mean pre-historical in the sense that the history is yet to be written.
to write this longitudinal study of the legislation and at the same time add something of value to the study of legislative change. I credit this discovery entirely to Professor Gareth Morgan’s inspiring work *Images of Organization* – a book in which he demonstrates how our theories about organisations are shaped by *images or metaphors* that are often taken for granted – for example, his observation that we commonly think about *organisations* utilising a *machine* metaphor (Morgan 1986: 12). Morgan’s more general point, as I interpret it, is that images shape the ways in which we think, and the ways in which we think influence how we act. Morgan’s work is considered in greater detail in Chapter 3. Suffice it to say at this point that I found in Morgan’s *images* concept a way of subsuming many of the questions that I was asking into one, *viz*: what were the *images* that had shaped parliamentary thinking about corporate financial reporting during the period 1844 to 1985? Not only did the image concept allow me to formulate a single research question, it also provided a writing structure; the possibility that different images had shaped Parliament’s thinking at different times facilitated a *periodisation* – so essential in historical exposition. The thesis thus became an exploration and documentation of Parliament’s *images* of corporate financial reporting during its 150 year legislative history, and hence my title – *Parliamentary Images of Corporate Financial Reporting 1844 to 1985*.

IV

What Does the Thesis Say?

Probably the clearest way to communicate a sense of what the thesis says and how it contributes to accounting thought is to elaborate on its structure. The thesis contains seven chapters in all. This introductory chapter is followed by a review of relevant literature in Chapter 2 and a discussion of substantive methodological issues in Chapter 3. The core historical content is contained in Chapters 4, 5 and 6. In these chapters, I identify, describe,
and document the three dominant images that I believe shaped Parliament’s thinking with respect to corporate financial reporting during its 150-year legislative history. These images are presented sequentially indicating the dominance of different images at different times. They are: corporate financial reporting as Revelation 1844-1900; corporate financial reporting as Assurance 1900-1940; and corporate financial reporting as Advice 1940-1985. Chapter 7 concludes the thesis by reviewing what has been achieved, reflecting on my personal learning, and suggesting an agenda for further research that might advance the work begun here. This structure is represented in Figure 1.1 and is elaborated upon in more detail below.
Figure 1.1: Thesis Structure

Chapter One: SETTING THE SCENE
An Introduction to the Thesis

Chapter Two: ACCOUNTING FOR PARLIAMENT
Exploring Legislative Change in Corporate Financial Reporting

Chapter Three: METHOD AND MEANING
The Methodological Foundations of the Thesis

Chapter Four: SECRETS AND LIES
Corporate Financial Reporting as Revelation: 1834-1900

Chapter Five: AFFIRMATION AND CONFIRMATION
Corporate Financial Reporting as Assurance: 1900-1940

Chapter Six: DECISIONS, DECISIONS
Corporate Financial Reporting as Advice: 1940-1985

Chapter Seven: EPILOGUE
Towards a Theory of Legislative Change
There is no extant body of literature that deals directly with the research objective of this thesis, viz: to identify and document the images that have shaped parliamentary thinking about corporate financial reporting. In other words, I am not following earlier work on parliamentary images – there is none. Thus, an important aim of Chapter 2 is to convince the reader that in attempting to understand the development of corporate financial reporting legislation it will pay to bring Parliament into the picture.

The closest related research literature is that which has tried to explain the general style of companies legislation, the style of private sector regulation and, in a smaller number of instances, the style of the financial reporting provisions contained in company law. Although this research literature has not posed precisely the same questions that I ask here, it is an extremely relevant literature in the context of this thesis.

In Chapter 2, I construct a three-way classification of this theoretical literature based on the core explanatory variable to which each theory appeals. The three categories are: (i) the appeal to political ideology; (ii) the appeal to private economic interests; and (iii) the appeal to class interests. My analysis does not attempt to adjudicate among these theories although it does draw attention to the contribution that each makes as well as to their limitations. The real advantage of the classification, as I see it, is that it helps to situate the present study in relation to these arguably more ambitious theoretical projects. It also makes clear, I hope, just how my work might contribute towards enhancing our understanding of the processes that each of these grand theories also aims to illuminate.
Chapter Three

METHOD AND MEANING
A Statement of the Methodological Foundations of the Thesis

The subtitle for Chapter 3 might as easily have been *an accountant comes to terms with history*. As with scholarly enquiry in any field of knowledge, historical research has its own philosophical and practical problems. This chapter attempts to deal with both. It begins by examining the difficult problem concerning the ontological status of the past and goes on to the even trickier epistemological problem regarding our claims to know that past. I try to elucidate a coherent philosophical position with respect to both problems - a position that is ontologically and epistemologically realist. The chapter also explains in some detail the central concept of *parliamentary image* that is employed throughout the thesis. Finally, details of the sources of evidence used are set out and the method I employed in making sense of it are explained.

Chapter Four

SECRETS AND LIES

Chapter 4 is the first of three historical chapters, each devoted to documenting, elaborating, and illustrating one of the three images that have shaped parliamentary thinking about corporate financial reporting between 1844 and 1985. This chapter is devoted to the *revelation* image - the idea that corporate financial reporting was conceptualised as a mechanism by which detailed, if vaguely-specified, characteristics and attributes of companies and those behind them might be exposed to public view. It is suggested here that the legislative history of financial reporting in the latter half of the nineteenth century may be read as the struggle between the competing implications of this image. The same image worked for two distinct groups: it served on the one hand to shape the legislative ambitions of those who saw financial
reporting as a way of protecting the public against the depredations of dishonest market operators by exposing their deceit and, on the other hand to shape the legislative ambitions of those for whom publication of financial information represented an unwarranted invasion of privacy. These competing preferences served to limit debate about corporate financial reporting to a debate about public disclosure policy only. The upshot of my argument is that the limited legislative development of corporate financial reporting during the nineteenth century can be understood as a failure to engage with the paradox inherent in the revelation image in a meaningful way. The chapter is structured around three legislative episodes, each of which illustrates the image in action at different stages during the period.

Chapter Five

AFFIRMATION AND CONFIRMATION
Corporate Reporting as Assurance: 1900-1940

Chapter 5 examines the second image - corporate financial reporting as assurance. In this chapter it is argued that the introduction of new auditing and disclosure provisions in the Companies Act 1900 and the Companies Act 1907, marked the beginning of a shift in Parliament's conception of corporate financial reporting away from the essentially passive revelation image and towards a more active assurance image - assurance in this context meaning inspiring or tending to inspire confidence. Instead of what had come to seem like an interminable debate about the desirability or otherwise of disclosure qua disclosure, parliamentary discourse shifted to the financial report itself - to questions of content, valuation, format, and reliability.

The discussion identifies the assurance imagery operating on two levels. Firstly, it shows how parliamentary attention turned to devising a form of financial report that would communicate basic indicators about the financial status of a company - a kind of affirmation by the
directors regarding the financial health of a company. Secondly, it shows how Parliament began to take the whole question of reliability in corporate financial reporting much more seriously than before – insisting on audit from 1900 onwards. It is not suggested here that this new image was in any sense fully elaborated when the initial steps were taken in 1900 and 1907. However, by the time the next major review of company law was undertaken in the mid-1920’s, culminating in the Companies Act 1928, the influence of this new image could be clearly seen.14 Using a presentation structure similar to that used in Chapter 4, this second image of corporate financial reporting is explored through an examination of two legislative episodes that I have called: (i) designing the statutory financial report; and (ii) inventing the statutory auditor.

Chapter Six

DECISIONS, DECISIONS

Corporate Financial Reporting as Advice: 1940-1985

The third and final image – corporate reporting as advice – represents my attempt to identify the shift in Parliament’s thinking about corporate reporting from assurance to the much more expansive notion of advice in the context of decision-making. I trace the origins of this image to the 1940’s – to the transformation of the ownership of companies into private shareholders’ hands (as distinct from those of families) and to the entry of the accountancy profession into the corporate financial reporting regulatory sphere. The chapter traces the development of this image from the work of the Cohen Committee in 1943-45 through to its strengthening in companies legislation enacted between 1947 and 1985.

An important aspect of my examination of this image is my contention that this image of corporate reporting is leading to the inevitable withdrawal of Parliament from the field of

14 The Companies Act 1928 was an amending act. The Act was subsequently consolidated with extant
corporate financial reporting legislation. My argument here is that, once corporate reporting came to be viewed as advice, the associated notion of expertise was never going to be far away. Thus, the past 30 years have seen Parliament remove itself from the forefront of the corporate financial reporting regulation through the delegation of this role to private sector standard setters. I date this removal to 1970 when, despite the calls for legislative intervention in the light of the major financial reporting scandals that attended 1960's take-over activity, Parliament permitted the accounting profession to take the lead in regulating corporate financial reporting.

Chapter Seven

EPILOGUE
Towards a Theory of Legislative Change

The final chapter contains the customary summary of the findings, together with an assessment of what has been achieved. This assessment is, broadly speaking, a positive one. The evidence does support my belief that the concept of parliamentary image has proven a very useful narrative device for writing a history of the legislative development of corporate financial reporting. The assessment of its explanatory contribution is more critical, indicating that there is still a good deal of work to be done before the images concept can become the centrepiece of a theory of legislative change. Nevertheless, this is a prospect that is in sight and the final chapter discusses some of the further work that needs to be done.
There is no time like the present for studying the legislative history of statutory financial reporting. August 2000 marks the centenary of the enactment of the Companies Act 1900, the statute that instituted our modern system of statutory financial reporting to shareholders, and mandated annual audit. And, in December 1999, the Government released a consultative document *Modern Company Law: Developing the Framework*, which proposes to radically overhaul the structure of company law for the new millennium. Significant changes are proposed for corporate financial reporting by public and private companies. The overall aim is to make the information contained in statutory accounts more relevant and 'usable'. It is proposed that listed companies will be required, among other things, to present a statutory Cash Flow Statement and a statutory version of the Operating and Financial Review designed to make company reporting more transparent and more relevant. Private companies will no longer be permitted to file abbreviated accounts and the public filing deadline for private companies is to be reduced from the current 10 months to seven, with the possibility of reducing this to five months at some future stage (Davies, 2000: 31). Company law is really entering a time of change.

Although this thesis is focussed on the past, its more general aim is, in a sense, timeless: that is to enhance our understanding of the corporate financial reporting legislative process. It aims to contribute to our understanding by identifying the significance of *imagery* in shaping parliamentary thinking about corporate financial reporting. It also aims to show that an exciting research agenda dealing with the legislative history of financial reporting provisions waits to be addressed. In the next chapter we begin this process by reviewing the extant literature dealing with questions of legislative change.
...there are occasions when even the most solemn and serious student of legislation is compelled to the conclusion either that Parliament has gone off its collective head or that the parliamentary draftsman was drunk, demented or determined to perpetrate some private joke in the well-founded hope that it would not be spotted until it was too late.

[Rt. Hon. Lord Oliver of Aylmerton, Lord of Appeal in Ordinary, address to the Annual General Meeting of the Statute Law Society, 6th May, 1992: full text, see Aylmerton (1993)]

I

Introduction

In Chapter 1 it was suggested that our understanding of legislative change in corporate financial reporting might be described as pre-historical. This was not intended to be in any sense dismissive of historical scholarship in accounting – the term was used merely to stress that the research agenda is a long one, and that a good deal of primary research as well as
theory testing and integration remains to be done. Arguably, part of the reason that this has not yet been done is because the legislative history of financial reporting is something of a marginal academic interest. Another part of the reason may be that there is some uncertainty about whether the disciplinary home of this branch of legislative history is in the domain of law or in that of accounting. That said, the legislative history of corporate financial reporting is not a barren field, and this chapter explores what we do know by reviewing the significant contributions to this literature.

The primary focus of the chapter is on theories that purport to explain legislative change. The chapter does not present a chronology of corporate financial reporting legislation, but a reference guide to companies legislation enacted between 1844 and 1985 is contained in Appendix A to this thesis. The main purpose of this chapter is to review the significant explanatory schemes that have been advanced thus far to explain the complexion of financial reporting legislation, with a view to situating the present study in relation to them.

The chapter proceeds as follows. Section II defines the object of the enquiry, statutory financial reporting, and explains a little about how financial reporting is regulated in modern economies. Section III develops a typology of the extant theoretical approaches to explaining legislative change that are in good standing within the scholarly community. Three approaches make up the typology:

(i) the attempt to link the style of legislation to prevailing political-economic doctrines – I label this the appeal to ideology;

(ii) the attempt to link the style of legislation to private interests – I label this the appeal to economics; and
(iii) the attempt to link the style of legislation to recurrent crises within capitalism

- I label this the appeal to class.

In proposing this three-way classification of the literature I am acutely aware that individual contributions to the literature are not always easily assigned to one class or another. The boundaries can at times seem a little blurred. Nonetheless, the classification does capture three essentially distinct theoretical explanations of legislative change - even though the individual contributions are not all as pure as the typology implies. Each of these theoretical approaches is reviewed and assessed in Sections IV, V and VI of this chapter.

In Section VII, the insights that each of these theorisations provides is acknowledged, but it is argued that instead of trying to test these theories here - staging a horse race as it were - the more compelling need is to expand our understanding of the legislative process. In essence, this amounts to claiming that the legislative development of financial reporting is not quite ready for grand theory. This is not an intellectual cop-out - a fear of nailing one's theoretical colours to the mast. On the contrary, it is argued that given the nature of the phenomena under investigation, and the absence so far of a robust theory to explain the legislative development of financial reporting, such an approach may be the only defensible one. Finally, it is suggested that the archaeological research programme promoted by Burchell, Clubb and Hopwood (1985) provides a sound and intellectually rigorous basis for conducting the investigation proposed here. Before going on to review this literature in greater detail, we need to make a few definitional remarks about statutory financial reporting and explain a little about how it is regulated.

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15 As will become clear, the focus on financial reporting legislative change in some of this theoretical work is not always as sharp as one might hope. Much of this work is at an early stage of development and has focussed on company law, securities regulation and financial reporting standard setting more generally. That said, it is the methodological approach that is important here rather than the specific findings.
Financial reporting is a pervasive feature of modern commercial life. Despite that, many people are understandably confused about the relationship between accounting, financial reporting and independent auditing, and about the regulatory arrangements that govern each of them.Crudely put, *accounting* refers to the activity of measuring and recording economic transactions or events. *Financial reporting* refers to the activity of preparing financial statements for presentation to interested users. *Independent auditing* refers to the examination of an enterprise’s financial statements by independent accountants, conducted with a view to expressing an opinion on the truth and fairness of those financial statements.  

When audited financial statements are presented to fulfil a statutory obligation, those statements are referred to as *statutory financial statements* or the *statutory financial report*. We may think of the statutory financial report as a document that follows strictly the rules set out in a statute concerning the measurement, valuation, presentation, and disclosure of a company’s financial transactions. However, for a variety of reasons, most companies present *corporate financial reports* that contain information beyond that which is set out in statutes, so that the corporate financial report *contains* the statutory financial statements within it, as it were. Consequently, the term corporate financial reporting is more widely used than the term statutory financial reporting. For some legal purposes the distinction between the two can be important, but it is not so critical in this thesis. Throughout the thesis, therefore, the terms *corporate financial reporting* and *statutory financial reporting* are used synonymously.

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16 Truth and fairness are technical accounting terms that refer to the *quality* of financial statements, especially in terms of accuracy and completeness of disclosure.
Today, most countries impose financial reporting obligations on business enterprises (Schroeder and Clarke, 1995:773). In most instances, these obligations are imposed either by statutory company legislation, by a governmental agency with delegated powers, or by some combination of these. The format and content of the financial reports along with the measurement and valuation principles adopted in their preparation may also be specified by legislation, by a governmental agency or private sector agency with delegated powers, or by a combination of these. Thus, in Germany, Japan and to a lesser extent in France, the format and content of financial statements along with the measurement principles to be adopted are almost entirely codified in legislation (Choi and Mueller, 1984). In the United States on the other hand, some basic reporting obligations are set out in securities legislation while the establishment of the accounting measurement and presentation rules to be applied is delegated to a private standard setting authority, the Financial Accounting Standards Board (FASB). The United Kingdom is similar to the US but different; in the UK the basic structure of financial reporting is set out in company law while most of the detailed accounting measurement and valuation principles are delegated to a private standard setting body, the Accounting Standards Board (ASB) (Turley, 1992). Variations to these basic models are to be found around the world.

Predictably, with the regulation of financial reporting still predominantly a national issue, the quality of reporting varies across countries. The variables that impact on the content and quality of financial reports within economies include: the level of industrial and commercial development, the sophistication of the capital markets, the extent of professional accounting involvement in the process, the structure of tax law, the dominant means of industrial financing, and national culture (Zeff, 1972; Schroeder and Clarke, 1995). The quality of corporate financial reporting in developed economies such as the United States and the United Kingdom is generally acknowledged to be higher than it is in emerging economies.
such as Russia and China, to name only two countries that are regularly criticised for the poor quality of their corporate reporting practices.\textsuperscript{17}

Not surprisingly, as capital markets become more global there is an ever-increasing demand from the international investment community for more consistent and internationally comparable financial information (Barthes, 1989). The task of responding to this demand has been taken up by the International Accounting Standards Committee (IASC). Since its establishment in 1973 it has been playing an ever-expanding role in promoting and developing a programme of international financial reporting standards aimed at harmonising accounting measurement, valuation, and disclosure principles around the globe. The IASC's project is a long term one and is really only in its infancy — but it is not inconceivable that within (say) 20 years from now, accounting regulation will have become a truly international rather than national affair.\textsuperscript{18}

For the present, however, in most industrialised nations corporate financial reporting legislation and regulation continues to be a national issue with a significant parliamentary/legislative dimension\textsuperscript{19} It is easy to see why. Corporate financial reporting can induce direct and indirect economic consequences and because of this its regulation is a highly\emph{ politicised} activity (Solomons, 1978; Zeff, 1978; Sunder, 1988; Wyatt, 1990). The style and content of reports, the measurement and valuation principles adopted, the interests to be recognised in devising rules of financial reporting, and the relationship between those

\textsuperscript{17} See report in the\emph{ Financial Times}, 18\textsuperscript{th} July, 2000, p.25: China to Launch Nasdaq-style market.

\textsuperscript{18} At the time of writing, June, 2000, the IASC is making significant strides. It recently concluded a project (the Comparability Project) aimed at reducing differences between its financial reporting standards and those of other major national standard setters with a view to securing recognition for IASC standards from the US Securities Exchange Commission, the international grouping of Stock Exchanges IOSCO, and the European Union.

\textsuperscript{19} I am not overlooking the fact that the level of international cooperation on corporate financial reporting regulation is enormous — the 8\textsuperscript{th} Company Law Directive of the EU is an example. But, at the same time, the large industrialised nations are protective of their 'sovereignty' and national parliaments retain ultimate legislative control of corporate financial reporting matters.
interests are all inherently contestable. Not only that, they are contested all the time (Cooper and Sherer, 1984; Jonsson, 1988; Van Riper, 1994).

This thesis is concerned with understanding the process of legislative change in statutory financial reporting of which we have been speaking. It begins from the observation that the legislation governing corporate financial reporting has undergone some remarkable transformations since general corporate financial reporting rules were first introduced in the Joint Stock Companies Act 1844. Whether these transformations can be described as differences in style is an issue that is addressed more comprehensively in Chapters 4, 5 and 6, but, on the surface, it seems that there are strong grounds for believing that they can. The specific legislative differences are discussed in detail in later chapters, but Table 2.1 below provides a flavour of what I mean by different styles.
Table 2.1: A guide to the main corporate financial reporting provisions of enactments between 1844 and 1985.

<table>
<thead>
<tr>
<th>Year</th>
<th>Legislation</th>
<th>Mandatory Financial Reporting provisions</th>
</tr>
</thead>
</table>
| 1844 | Joint Stock Companies Act 1844 | This act introduced the first financial reporting provisions:  
• presentation of balance sheet to shareholders  
• public filing of balance sheet with Registrar  
• mandatory shareholder audit |
| 1856 | Limited Liability Act 1855 | This act required that company auditors be subject to Board of Trade approval |
| 1856 | Joint Stock Companies Act 1856 [Consolidation] | This act repealed earlier financial reporting provisions:  
no new financial reporting provisions were introduced |
| 1862 | Companies Act 1862 [Consolidation] | This act continued the rules from Joint Stock Companies Act 1856:  
• there were no mandatory financial reporting provisions for remainder of nineteenth century |
| 1900 | Companies Act 1900 | This act reintroduced limited financial reporting:  
• presentation of balance sheet to shareholders  
• mandatory audit |
| 1907 | Companies Act 1907 [Consolidated in 1908] | This act reintroduced public filing of balance sheet with the Registrar of Companies, but provided an exemption for private companies |
| 1928 | Companies Act 1928 [Consolidated in 1929] | This act first required the presentation of a profit and loss account to shareholders but not for public filing |
| 1947 | Companies Act 1947 [Consolidated in 1948] | This act radically expanded financial reporting:  
• profit and loss account to be publicly filed  
• balance sheet and profit and loss accounts to be consolidated for group companies  
• public filing exemption withdrawn for many private companies  
• company auditors to hold recognised accountancy qualifications |
| 1967 | Companies Act 1967 | This act required further disclosures in the profit and loss account and balance sheet  
• public filing requirement withdrawn from remaining private companies |
As a first pass at documenting the financial reporting legislation enacted between 1844 and 1985, Table 2.1 reveals stylistic differences that suggest that legislators may have approached the regulation of corporate financial reporting from quite different perspectives over time, and may even have entertained quite different notions concerning the purpose(s) of corporate financial reporting. The remainder of this chapter aims to discover and review how scholars have tried to explain these differences up until now.

III

Explaining Change in Corporate Financial Reporting Legislation

The ubiquity of the corporate enterprise in the modern economy has meant that accounting and corporate financial reporting have come to be viewed as natural activities. In other words, their logic is considered self-evident. To the extent that we even bother to ask why we have the corporate financial reporting system that we do, it is usual to explain its existence and form in terms of the functions that it performs. Thus, we find that the basic system of double-entry book-keeping is explained as a response to the need to maintain comprehensive and accurate records of financial transactions (Sidebotham, 1965: 4; Most, 1977: 25). The balance sheet, and refinements to it are explained as responses to the demands of providers of risk and loan capital for comprehensive asset and liability information – stewardship (Most, 1977: 27; Schroeder and Clark 1995: 3). And, finally, the profit and loss account is said to have been developed to assist with the division of profits between partners in commercial ventures and, latterly, in conjunction with the development of capital markets, refined to permit more sophisticated performance assessment (Lee, 1990: 91).
It is not difficult to appreciate why accounting and financial reporting are so commonly explained in these functional terms. Accounting and financial reporting are human inventions and, as the proverb puts it, necessity is the mother of invention. Corporate financial reporting does perform important functions in society such as the protection of investors and sustaining confidence in the securities market. Furthermore, our contemporary experience tends to be that change and improvement in financial reporting usually come about in response to some external demand or other. A good example was the recent London Stock Exchange regulation requiring enhanced disclosures about company directors’ remuneration packages, coming as it did after public outcry over the allegedly high salaries being paid to some directors of newly-privatised state companies in Britain. Therefore, I am willing to accept that in certain instances a functional explanation may supply the necessary and sufficient causes to explain why specific corporate financial reporting practices emerge. But function is a very general concept. If all social practices could be explained in terms of their function, explanation would be a far easier task than it actually is.

What this thesis does say then, is that a functional explanation will not always provide the necessary and sufficient conditions to explain the enactment of specific legislation. In particular, it says that we will not be able to explain the origins of or the changes to corporate financial reporting legislation by appealing (functionally) to the putative uses which financial statements fulfil. In others words, there is no reason to suppose that a causal link can be made between the uses to which (say) the balance sheet is put, and its being mandated in legislation.

That is not to say that there is no link – we may presume that a legislature will not continue to

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20 A functional explanation is one that explains the existence and nature of a phenomenon completely in terms of the use(s) it fulfils. Functionalism has been subjected to more than its fair share of criticism in academic discourse. I would not wish to embrace these criticisms entirely, believing that in many instances a functionalist explanation may indeed supply the necessary and sufficient conditions to explain certain phenomena.
mandate the production of a document that it believes to be useless. Rather the point is that the function by itself is not a sufficient explanation for its being mandated.

A moment’s reflection should be sufficient to explain why. As an accounting document, the balance sheet has existed for centuries if not millennia. Yet, its presentation was first formally legislated for in the Joint Stock Companies Act 1844. Twelve years later, and despite plenty of evidence that the balance sheet did serve a purpose, its presentation was de-mandated in the Joint Stock Companies Act 1856, and not reintroduced until 1900. To take a more recent example, the method that is used today to consolidate the accounts of groups of companies was developed around the end of the nineteenth century and was being employed by many companies by the late 1920s. Yet, despite its use in leading companies, and not insignificant pressure from His Majesty’s Opposition, Parliament decided against mandating the presentation of consolidated accounts for groups in the Companies Act, 1928.

If legislative change in corporate financial reporting cannot be explained by appealing to the function(s) of financial statements what will explain it? Clearly, what I am saying here is that there is something about the legislative process that calls for a more complex explanatory scheme than one that is merely functional. Legislation does not emerge in a vacuum - only by integrating the workings of interest groups, the judicial culture, the ideological biases of government and much else will we develop a truly viable explanation for the shape of the financial reporting provisions contained in the companies acts.

Does this mean that nothing general can be said? Perhaps, but thankfully, not everyone has been deterred from attempting to construct grand theories of legislative change. The three significant attempts to theorise financial reporting legislative change mentioned earlier are

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21 I discuss this issue at length in Chapter 4.
examined below: *the appeal to ideology, the appeal to economics, and the appeal to class*.

Table 2.2 below sets out the basic parameters of each formulation and this is followed by a review in Sections IV, V and VI of the contribution made by each.

**Table 2.2: Typology of theoretical contributions to understanding change in corporate financial reporting legislation**

<table>
<thead>
<tr>
<th>Theoretical perspective</th>
<th>Appeal to Ideology</th>
<th>Appeal to Economics</th>
<th>Appeal to Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Core variable</td>
<td>A political doctrine</td>
<td>Economic self-interest</td>
<td>Crisis tendencies in capitalism</td>
</tr>
<tr>
<td>Typical applications</td>
<td>(i) to explain the complexion of company law. (ii) to explain the style of financial reporting legislation.</td>
<td>(i) to explain lobbying behaviour in regulatory and legislative matters. (ii) to explain the legislative and regulatory outcomes historically.</td>
<td>(i) to provide socially and historically informed explanations for financial reporting phenomena, regulation and legislation. (ii) to falsify positive economic theories.</td>
</tr>
</tbody>
</table>
The British Companies Acts were part of a distinct cultural evolution and were inseparable from the changing public policy environment of the historical time and place. If history is a guide, the continual expansion and strengthening of legislative accounting provisions was closely tied in with the policy development of the modern welfare state in the later nineteenth century.


There has been a strong tradition within professional and academic accounting discourse of explaining the *complexion* of companies legislation and, by extension, the corporate financial reporting legislative provisions contained therein, in terms of particular *political ideologies* or *political doctrines*. By ideology I do not mean an extremist political programme based on *factitious* ideas or rhetoric (although I would not wish to preclude such a possibility), or to mean the opposite of *rational*. Rather, I use it here in its anthropological sense to refer to a *culturally embedded system of beliefs or principles upon which the political and economic order of the society is based* (Enteman, 1993: 8).

Probably the two most influential attempts to formally theorise legislative change in financial reporting in ideological terms have been the applications of the *laissez-faire thesis* and its refinement *the laissez-faire – collectivist thesis*, adapted by accounting scholars from the work of the constitutional historian A.V. Dicey. Dicey (1905) provided a tripartite split of nineteenth century political ideology into periods of *Old Toryism, Individualism* and
Collectivism. He contrasted governmental regulation during the period of Individualism (now widely referred to as Laissez-faire) when markets were unregulated and the law was facilitative, private and decentralised, with a Collectivist period during which markets were regulated, and the law was directive, public and centralised.

In one of the earliest attempts to examine financial reporting legislative change, Edey and Panitpakdi (1956) following Dicey, advanced the view that the relaxed, undemanding style of nineteenth century corporate financial reporting legislation could be understood as a product of the non-interventionist, laissez-faire political philosophy which they claimed had dominated political thinking at that time (p: 361). This contrasted, they said, with twentieth century political sentiment which, in general, countenanced more detailed regulation through legislation - that regulation itself increasing as the century progressed.

Parker (1990) sharpened somewhat the application of the laissez-faire thesis to financial reporting. He showed that the intensive regulation of railway companies, public utilities and other public interest companies during the nineteenth century, which on the surface had seemed like an anomaly in the context of a supposed laissez-faire environment, was entirely consistent with refined understandings of laissez-faire at the time. Unlike normal shareholder/director relationships, which were assumed not to fail, Parliament discerned market failure and information asymmetries where company information needed to be accessed by parties other than shareholders, as was the case with public utilities. Therefore, according to Parker, Parliament mandated strict financial reporting obligations for these 'public interest' companies. In brief, Parker contends that the so-called regulated companies were singled out for stricter regulation because of: (i) the potential for the abuse of monopoly power; (ii) the availability of special privileges granted by the State (e.g., compulsory purchase powers); and (iii) the public safety issues associated with these companies. In Parker's view,
regulation was consistent with the doctrine of *laissez-faire* because the regulated companies were, in a sense, exceptions to the general case (1990: 69).

In an even more ambitious application of the Diceyan schema, Jones and Aiken (1995) suggest that Dicey's tripartite periodisation - *Old Toryism*, *Individualism*, and *Collectivism* - provides nothing less than 'a comprehensive theory of legislative change during the nineteenth century which can explain the context, timing and development of all major companies legislation of the period' (1995: 62). Jones and Aiken believe that earlier theorists were wrong to create a nineteenth century - twentieth century divide when explaining the legislative development of financial reporting. Following Dicey, they identify a *laissez-faire era* (approximately 1825-1870) which was characterised by little Government intervention in company law and a *collectivist era* (approximately 1870-1900) which was characterised by a marked increase in Government intervention. According to Jones and Aiken, the Joint Stock Companies Act 1844 Act which permitted the formation of joint stock companies by the simple process of registration, and the Limited Liability Act 1855, and Joint Stock Companies Act 1856, which together extended limited liability to all joint stock companies with minimal regulation, were all consistent with the principle of *laissez-faire*. From about 1868 onwards however, the *laissez-faire* consensus was breaking down. Jones and Aiken argue that the spate of legislation from about 1870 onwards, imposing more stringent controls on companies, is evidence of emergent *collectivist* tendencies; the Joint Stock Banks Act 1879 for example, reinstated mandatory disclosure and auditing provisions for banks, and the Companies Act 1900 reintroduced auditing for all joint stock companies.

The *laissez-faire* and the *laissez-faire* – *collectivist* theses have not been without their critics. The division of the nineteenth and twentieth centuries into periods of *laissez-faire* and *collectivism* respectively, together with even more nuanced periodisations, have been
challenged by a number of political and economic historians (Holmes, 1976; Perkin, 1981; Henriques, 1979). Perkin, for example, believes that individualism versus collectivism is a false antithesis. According to him they were not opposites but adjacent steps in a progression:

Individualism was not a simple antonym to collectivism; both were in fact complex concepts. Those, like Dicey, who have treated them as opposites, two poles between which social policy could swing but, like north and south in magnetism, could not point both ways at once, have created a dilemma for themselves which does not exist (Perkin, 1981: 61-62).

In fact, there is something approaching a consensus among revisionist historians that Laissez-faire may be little more than an historical myth, the only useful purpose of which was to capture a trend in the changing philosophy of the nineteenth century State. As Parris points out, anyone who knows anything about British history in the nineteenth century can think of things that do not fit Dicey's interpretation (Parris, 1969: 17).

The application of the laissez-faire and the laissez-faire – collectivist theses to company legislation, and to financial reporting specifically, has also been challenged by accounting historians – drawing primarily on the work of political and economic historians just referred to (Walker, 1996; Maltby, 1999). In a challenging rebuttal of Jones and Aiken’s (1995) claim that the Companies Act 1879 evidenced the beginning of a transformation towards collectivist legislation, Walker (1996) finds the Act to be anything but a clear case of interventionist legislation. In fact, he shows how, in the course of its passage through Parliament, the Bill emerged as a shadow of its former interventionist self (1996: 319). Still approaching the question from an ideological perspective, Walker argues that the Companies Act 1879 did not mark a fundamental departure from, but was rather a continuation of, the liberal ideology that had generated the formative companies legislation of the 1850's. But it is Walker’s methodological critique that is perhaps even more important. Drawing from the work of the
Holmes (1976) and Harris (1992), Walker suggests that the use of monochromic, abstract theories of Victorian Government to explain the complexion and timing of companies legislation is suspect:

Such supra-generalisation would appear to stand in stark contrast to the movement in historical studies towards the comprehensive archival based investigation of events and ideas in their specific contemporary contexts; the need to search for multiple rather than mono-causal explanations, and the potential for interplay of multiple surfaces of emergence of particular phenomena. (Walker, 1996: 321)

In my estimation, these criticisms of the laissez-faire and the laissez-faire - collectivist theses, while challenging, do not completely undermine the methodological approach. However significant the problems might be, there is no gainsaying that political ideologies do at least appear to help us distinguish different approaches taken by Parliament towards regulation. In other words, they have some explanatory power in our search to understand legislative change. It may be that accounting historians have accepted the laissez-faire thesis and its refinement too uncritically. Or it may be that the periodisation of the era is wrong, or that the descriptive labels need to be more finely honed, but that is a task that hopefully may be accomplished with time and effort. It would fly in the face of common sense not to recognise the contribution that the ideological perspective can bring to our understanding of legislative change in financial reporting and this is acknowledged in the present work.
Monitoring of performance is important if not crucial to the formation of firms. The long survival of auditing suggests it is part of the efficient technology for organizing firms. When the U.K. Companies Act of 1844 required directors to keep accounts and required those accounts to be audited by persons other than the directors (or their clerks), Parliament was merely incorporating into law a version of a practice that had existed for six hundred years. [Watts, R. and Zimmerman, J.L. (1983), Agency problems, auditing, and the theory of the firm: some evidence, Journal of Law and Economics, XXVI, p. 614/626]

The last 30 years or so have seen a virtual explosion in the application of economic theory to research questions in accounting and financial reporting. The origins of this explosion are usually dated to the work of Ball and Brown (1968) and Beaver (1968) who are credited with introducing empirical finance methods to financial reporting research (Watts and Zimmerman, 1990). In the period since then, two economic theories, the theory of agency and the theory of public choice, have been hugely influential in accounting research. Following the work of Jensen and Meckling (1976), agency theory has been a core theoretical formulation in the search for what are referred to as positive theories of accounting (Watts, 1977; Watts and Zimmerman 1978, 1979, 1986, 1990).22

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22 Agency theory is directed at understanding the behaviour of parties where one party (the agent) is employed to represent another party's (the principal's) interests. The theory is concerned with resolving two problems that can occur in agency relationships. The first is the *agency problem* that arises when the desires or goals of the principal and agent conflict and where it is difficult or expensive for the principal to verify what the agent is actually doing. The second is the *risk sharing problem* that arises when the principal and agent have different attitudes towards risk. The unit of analysis is the *contract* governing the relationship between the principal and the agent and the focus of the theory is on identifying the most efficient contract (Eisenhardt, 1989: 58). From an agency theory perspective, corporate financial reporting is revealed as an efficient method of monitoring contracts between managers and those
Of more relevance to this thesis, however, has been the application of public choice theory in the search to explain financial reporting regulation. Public choice theory began as an application of economic theorising to the field of political science (Downs, 1957; Black, 1958; Olson, 1971). In the regulatory and legislative spheres the theory is premised on the rational actor of micro-economics: individuals, politicians and bureaucrats, are assumed to be egdistic, rational utility maximisers, who act to pursue their own self interest. To public choice theorists, the legislative process is a competition for wealth transfers – a market where legislators transact for legislative privileges with privilege-seeking entrepreneurs. In public choice theory, traditional conceptions of a legislative process motivated by the public interest goals of politicians are seen as naïve (Harris, 1994: 611).

As a private interest theory, the public choice approach has been found to be especially useful for studying many forms of private and public regulation both past and present (Stigler, 1971; Peltzman, 1976; Black, 1996; Mahoney, 1999). A fascinating study by Harris (1994), for example, completely revises the conventional interpretations of the infamous Bubble Act of 1720. The received wisdom was that, in 1720, the South Seas Company, despite the flimsiest of business prospects, managed to increase the value of its shares to a spectacular height before the price collapsed – at which point, Parliament intervened by enacting the Bubble Act which proscribed joint-stock companies that did not have a charter. Work by Garber (1990) and Harris (1994) suggests that the reality was considerably more complicated. The Bubble Act was in fact enacted before, not after, the steep drop in the South Seas Company’s share price (Garber, 1990: 51). More importantly, in the context of public choice theory, Harris’ analysis of the South Seas Company’s directors’ connections to Parliament strongly suggests that the statute was enacted at the company’s behest in order to cut off competition for scarce supplying capital. By reducing monitoring costs, corporate financial reporting reduces overall agency losses. Agency theory also explains financial reporting change in the same terms.
capital (Harris, 1994: 612). In other words, the Bubble Act was a classic piece of private-interest (not public-interest) legislation.

Public choice theory has been used by accounting researchers to model the lobbying behaviour of the vested interests in the financial reporting standard setting process such as auditors, academics, management, and industry groups (Watts and Zimmerman, 1979; Hope and Gray, 1982; Sutton, 1984; Tandy and Wilburn, 1992, 1996; McLeay et al, 2000). The more sophisticated branches of this work are directed at assessing the relative influence of each of the vested interests in the regulatory process by examining the extent to which their preferences are ultimately reflected in the final regulation. As a general rule, most applications of public choice theory in financial reporting research are directed towards understanding the private sector financial reporting standard setting process rather than the parliamentary legislative process. It is a fair generalisation to say that this has occurred because, in the countries that have delegated financial reporting standard setting to the private sector, those standards have become far more significant and controversial in terms of their economic consequences for enterprises than anything produced by the parliamentary legislative process. This line of enquiry has also been facilitated by the extensive record-keeping associated with the public consultation process that has become part and parcel of financial reporting standards formulation.

An exception to this general rule is to be found in a recently-published study of the implementation of the European Fourth Directive on Company Law into German commercial law. Using a wealth of public documentation, McLeay et al. (2000) concluded that it was the industry lobby group representing accounts preparers that exerted the greatest influence on the decisions of the German legislature - a finding similar to that documented for the United States by Sutton (1984). To my knowledge, no research has yet been published that attempts to
model the roles played by the various interests in influencing the specific financial reporting provisions of a British companies act in the way that McLeay et al. have done for the German case. However, it does seem that their work opens up the possibility that others will follow and apply their methods to the British companies acts.23

Public choice theory has not gone unchallenged. The theory attaches enormous weight to legislators' electoral ambitions (Croley, 1998: 42). The premise that legislators will supply regulation to groups in exchange for resources that secure their position in office may be plausible at a general level, but it unwisely assumes away all the other goals that a legislator may have and how those different goals might interact. The same criticism applies to the self-interest and rationality assumptions made about other actors in the process. A particularly powerful challenge to public choice theory has come from New Institutionalism, especially the political, historical and sociological strands of it (Meyer and Rowan, 1977; Dimaggio and Powell, 1983, Powell, 1984). New institutionalism views actors as rule-following satisficers rather than rational-choice maximisers (Black, 1996: 709). It also views the economy as more than a market mechanism: the economy includes institutions which form, structure and operate through, or channel the operation of, the market. Thus, an institutional analysis of legislation might argue that the choice of legislative or regulatory strategy is not explicable as an outcome of competitive bargaining between diverging private interests, but rather that it is affected and constrained by institutional arrangements, including legal and non-legal rules, which shape, mediate and channel preferences and action.

23 The publication of the McLeay et al. paper in March 2000, vividly illustrates why I was so keen not to conduct a single issue study for this project. Their paper (of which I had no knowledge until it was published in the current volume of Accounting Organizations and Society, (25), 2000) studies a single enactment – the enactment of the Fourth European Company Law Directive into German commercial law.
From my reading of the literature, it seems likely that new institutionalism will expand the explanatory canvas of public choice theory rather than replace it. After all, new institutionalism has its origins in economics, albeit in a critique of some of its venerable assumptions. As an approach, I believe public choice theory will continue to enhance our understanding of the lobbying behaviour of the parties interested in legislation. It is somewhat less convincing when it comes to explaining the outcome of the legislative process itself. In other words, while it may be possible to identify interest groups in action, and even to model their interests more or less accurately, linking these with any degree of precision to the legislative outcome can still be very difficult. However, in the same way that we should not dismiss the insights provided by the *ideological perspective*, it is almost impossible to imagine that we could develop a complete understanding of the legislative history of financial reporting without taking account of the role of incentives in prompting interest groups to lobby for specific legislative outcomes. That said, it is equally clear that incentives will not explain everything and that there is still a place for detailed historical exposition.
VI

The Appeal to Class

The state has interests in the success of advanced capitalism and acts to sustain it. In these circumstances state and industry, whether state-owned or newly-privatised cannot avoid recurrent legitimation problems; and these in turn lead to accounting policies that sustain the rationality and hence legitimacy claims of government and management respectively. Accounting policy choice takes place in a world embodying fundamental social conflict: and it is through longitudinally tracing the dynamics of this conflict through the crisis tendencies of the social institutions embedded in advanced capitalism that accounting policy choices can be understood. [Puxty, A.G. (1997), Accounting choice and a theory of crisis: the cases of post-privatization British Telecom and British Gas, Accounting, Organizations and Society, 22, (7), p.734]

Over the past 30 years or so, a number of accounting researchers have turned to Marxist class analysis, and refinements of it by twentieth century social theorists, to explain the emergence of corporate financial reporting and the specific form that financial reporting regulation has taken (Tinker, Merino and Neimark 1982; Merino and Neimark, 1982; Puxty, 1997). In a limited number of instances this research has extended to examining the origins of the accounting provisions in British company law (Bryer, 1991, 1993, 1997; Maltby, 1999). What distinguishes this line of enquiry into legislation and regulation from both the ideological and the public choice explanations examined earlier is that its explanatory core is anchored in the bedrock of the crisis tendencies of the capitalist economic system (Puxty, 1997: 717). These crisis tendencies manifest themselves in different ways through time, but they all originate

Among the twentieth century social theorists that have influenced these accounting scholars are Jurgen Habermas, Theodore Adorno and Claus Offe.
from the basic need of *capital* to expand and concentrate, and to expropriate the fruits of labour, while at the same time requiring labour to have sufficient purchasing power to purchase the outputs of the system (Puxty, 1997: 717).

One of the earliest contributions to this genre was the work by Merino and Neimark (1982) who argued (in the US context) that the Securities Acts were part of an ongoing effort by the State to reconcile the *economic dominance* of certain powerful industrial capitalists with prevailing *individualistic democratic theories* without disturbing the existing set of social and economic relations (p: 49). The huge concentration of economic power in the hands of very wealthy and powerful entrepreneurs in the early decades of twentieth century America was at odds with the espoused notions of individual economic and political participation that were fundamental to the new democracy.25

According to Merino and Neimark, up until 1930 a rhetoric of market competition and widespread stock ownership was advanced to allay fears in this regard – to help resolve the *contradiction*. However, the stock market crash in 1929 meant that radical intervention of a regulatory nature was inevitable. Merino and Neimark's argument at this point is quite subtle. It runs as follows: faced with widespread public criticism of the effects of increasing economic concentration, the Securities Exchange Commission (SEC) had to respond. The SEC, however, did not bring forward legislation to combat the ill-effects of economic concentration. Rather, it introduced a system of financial disclosure (including independent audit) which was designed to restore confidence in the existing system of corporate governance while at the same time maintaining the social and economic *status quo*. Industrialists welcomed this because, as Merino and Neimark posit, independently audited financial statements added

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25 The spectre of such enormous economic power in the hands of a small group of men who did not actually own the resources that they controlled was of such widespread public concern that Congress'
credibility to promoters' activities and held out the real possibility that more draconian governmental oversight or intervention would seem unnecessary (1982: 37).

In a similar vein, the British accounting historian Bryer has published a series of investigations into the development of financial reporting in Britain also adopting a Marxist class analysis framework (Bryer 1991; 1993; 1994). According to Bryer, Marx had predicted that the fragmentation of shareholding in joint stock companies would lead to the replacement of individual capitalists by managers. However, unlike the neo-classical economists who saw the managers as powerful agents, Marx saw them as functionaries of collective capital. According to Bryer, modern financial reporting and auditing emerged to regulate the new social relations that were emerging between fractions of capital (i.e. between investors and managers and between investors themselves). In what he calls the investor capitalism perspective, Bryer argues that the need for reliable and comparable financial reports arose from the need to protect and further the collective interests of investors (Bryer 1993: 671). Put more formally, Bryer concludes that modern financial reporting ensured that management remained mere functionaries of total social capital, not powerful agents who were able to systematically manipulate accounts in their own interest. In his view, investors were significantly better served by accounting information than is indicated in much of the existing historical literature (1993: 686).

Maltby 1999 has used the Marxist framework to explain the relaxed corporate financial reporting environment that existed during the nineteenth century. Rejecting the laissez-faire thesis entirely, she argues that company legislation in the Victorian era was framed in the
interests of large investors. According to Maltby, these elite capitalists were so close to the companies in which they invested that they had little need for legislation mandating financial disclosure and therefore successfully lobbied against it. The eventual introduction of more onerous corporate financial reporting provisions at the end of the nineteenth century only occurred when disclosure was perceived by these same investors to be advantageous to them (1999: 12). She concludes:

The motive force behind companies legislation was not an ideological commitment to individualism, succeeded by a movement towards collectivism. The interests of large investors, the merchant bankers and merchant princes predominated throughout. The absence of a mandatory accounting requirement in the 1855-62 legislation was not the product of a belief in economic freedom, but a reflection of the preferences of large investors in whose interests the legislation had been framed. (1999: 27, 30)

The move towards interrogating the development of financial reporting from this socio-historical perspective is still relatively young. In the short space of 20 years, a small though significant body of researchers have gathered around the themes that it addresses. Its contribution, I believe, has been very significant – the early contributors such as Tinker, Merino, Neimark, Cooper, Puxty and Bryer, can be fairly credited with inaugurating a powerful socio-historical analysis of accounting. Like the other two perspectives examined, I believe that its contribution has been invaluable and that it too must find a place in any comprehensive explanation of legislative change.

26 Maltby is not very explicit about her theoretical framework. There are elements of her analysis that would fit comfortably in the public choice framework. However, I think on balance that her theoretical allegiance is socio-historical rather than economic determinacy.
What have we learned from these three perspectives on legislative change? One important lesson is that the legislative history of corporate financial reporting is beginning to attract research attention. There is every reason to believe that each of the theoretical perspectives examined here will continue to provide new insights about the legislative development of corporate financial reporting for some time to come. It would be premature and inappropriate in my view to offer any firm conclusion on the theoretical superiority of any of the perspectives at this time on the basis of the review conducted here. At a minimum, one would need to devise some form of discriminating test in order to form such a conclusion and no such testing is proposed here.27

An even more important lesson though may be to recognise that there is scope to broaden out the study of the legislative process. There is no shortage of research questions to ask and little restriction on the ways in which one might go about seeking to answer them. For me, there are three missing elements in the existing work which I sense are worth pursuing in greater depth. The first is the absence of any clear focus on the role that Parliament, as a collective, plays in the development of financial reporting legislation. Parliament is something of a black box in the theoretical frameworks that have been examined here. The second is the absence of a sharp distinction (or any distinction in some cases) between the complexion of company law on the one hand, and the complexion of the financial reporting provisions contained therein on the other. It is assumed rather than demonstrated that explanations for the shape of company law

27 This is not to say that no assessment can be made. The style and form of argumentation in these theoretical contributions is such that the authors themselves are ready to acknowledge the tentative status of their propositions. It is also apparent that these theorisations are not mutually exclusive in the sense that any one necessarily contradicts the others. In fact, it would seem that they are potentially more complementary than contradictory.
will double as explanations for the shape of the corporate financial reporting rules contained therein. Admittedly, this is more true of the laissez-faire explanation than it is of either the public choice or class based explanations. The third is the absence of a truly longitudinal perspective that tries to capture the development of corporate financial reporting legislation over a much longer period of time - from the earliest legislation enacted in 1844 until the most recent consolidation of the law in 1985.

The studies examined here might therefore be seen as a point of departure for the present study. To return to the question that I posed in Chapter 1: what do we really know about what Parliament was thinking when it legislated on corporate financial reporting between 1844 and 1985? The answer is very little indeed. Lest this be interpreted as too summary a dismissal of the work that has just been reviewed, let me state a number of things very clearly. I do not for a moment doubt that, as a general rule, nineteenth century parliamentarians favoured less rather than more intervention in company affairs as the laissez-faire thesis suggests. Nor do I have any doubt that industry groups have successfully lobbied Parliament to omit and modify the proposals contained in successive companies bills. I also accept that that there are contradictions within capitalism that mandatory financial reporting may have helped to alleviate, if not resolve. But I also believe that there are a number of other angles to the legislative process that need to be explored before we attempt to integrate towards a comprehensive theory of legislative change in corporate financial reporting – assuming that such a theory could even be developed. My small contribution to that exploration is to ask what Parliament was thinking. I may find that Parliament was thinking very little, but then I shall know!

Such an approach is not without intellectual support. In their examination of the emergence of the value added statement in the UK during the late 1970's, Burchell, Clubb and Hopwood
(1985) acknowledge that searching for the one origin of a social event or practice such as accounting or auditing may be to misconceive and misdirect the historical project. Rather they urged researchers to examine the complex interplay of institutions, issues and processes in order to bring to light the historical contingency of what becomes practice and the dispersed ways in which practices emerge (p: 409). In eschewing the functional explanation at one extreme and grand theoretical schemes at the other, Burchell et al. helped give legitimacy in accounting historical scholarship to what in anthropology is referred to as thick description.

Burchell et al.'s work might also be said to offer a kind of justification for the study of parliamentary images that is being proposed here. I see Parliament as an institution through which, if not from which, financial reporting legislation emerges. *Prima facie*, it seems reasonable to assume that, in enacting financial reporting legislation, Parliament entertains some notion of what it is trying to achieve (however hard that may be to discern). Furthermore, it seems likely that exploring the images that shaped Parliamentary thinking historically is an important analytical project. This thesis attempts to get at these parliamentary images and to illustrate how they, in turn, shaped legislation.

**VIII**

**Conclusion**

Ask the man on the Clapham omnibus why we have the financial reporting legislation that we have, and he will most likely tell you that it was put in place to protect us. This chapter has attempted to show that, while his functional answer contains some essential truth, it is extremely limited as an explanation for the framework of corporate financial legislation that we have today. The chapter has also shown that, while there is a number of more developed
theorisations of legislative change, these have limitations. Legislative change is inherently political and, for that reason, it is unlikely ever to succumb to a single grand theory.

The chapter also revealed my own preference for a historical study of the imagery that shaped parliamentary thinking – a project that presents a different set of epistemological and methodological problems to those commonly encountered in more traditional social scientific enquiries. It is to these questions that we must now turn our attention. In the next chapter we go on to examine the ontological and epistemological problems that confront historical enquiry generally. We explore the meaning of the central concept in the thesis – the parliamentary image – and we discuss the methods actually adopted in this thesis to identify the imagery underlying parliamentary thinking about corporate financial reporting.
CHAPTER THREE

METHOD AND MEANING\textsuperscript{28}

The Methodological Foundations of the Thesis

Social events do have causes and social institutions effects; but it just may be that the road to discovering what we assert in asserting this lies less through postulating forces and measuring them, than through noting expressions and inspecting them.

\textit{Clifford Geertz (1983), Local Knowledge: Further Essays in Interpretive Anthropology, New York: Basis Books, p:34}

I

Introduction

As a social scientist with no formal training as a historian, undertaking historical research presents many challenges, not least of which is learning \textit{to do} history. Unlike social scientists, historians by and large eschew the tradition in social scientific writing of presenting a comprehensive statement of the methods employed in their work.\textsuperscript{29} Perhaps the tenets of

\textsuperscript{28} I borrowed the phrase \textit{Method and Meaning} from Professor Richard M. S. Wilson who coined it as the subtitle for a trilogy of textbooks on accounting and financial management for which he had editorial responsibility: Laughlin and Gray (1988), Wilson and Chua (1988) and Puxty and Doeds (1988).

\textsuperscript{29} Richard Evans, Professor of Modern History at the University of Cambridge, has observed that some historians even dispute the right of non-historians to write about the nature of historical knowledge and explanation at all. The eminent British historian, Sir Geoffrey Elton, was among them declaring: 'There is no reason why great historians (or indeed lesser ones) should not have their manner of thinking and
historical method are assumed to be so widely shared that their application can be taken for granted? Whatever the reason, precise guidance on method is difficult to find.

That said, a review of the literature on the philosophy of history reveals that issues of historical method are far from settled. This vast literature is replete with controversy and debate about the nature of historical reality, discoverability, objectivity, interpretation, and reliability. On reflection, it would appear that what distinguishes historical scholarship from social science scholarship in this regard is that philosophical debate in history is more or less confined to the sub-discipline of historiography, whereas in the social sciences such debates remain very much a part of mainstream debate.

Notwithstanding the convention in historical writing, I believe that it is necessary to address the methodological foundations of this research in a reasonably formal manner. Moreover, doing so has proven very beneficial for a number of reasons. Firstly, as a newcomer to historical enquiry, composing this statement of methodological foundations has exposed me to the main ontological, epistemological and methodological challenges that confront historical enquiry. Secondly, attempting to develop a coherent response to these challenges has helped me enormously in planning and conducting the research. In particular, it has helped me to identify and select appropriate sources of historical evidence and it has taught me something about how to read and interpret that evidence. Finally, the minimal expectation that good history should rise above chronology has influenced how I have structured and written up the thesis.

operating investigated, but such studies are pointless unless the investigator can demonstrate that he knows at first hand what working on the materials left to us by the past actually means.” See Elton, G.R. (1991: 34)

METHOD AND MEANING

In refining my views on many of the issues discussed in this chapter, I have read widely in the philosophy of science, the philosophy of history and the philosophical of law. I acknowledge a huge debt to three contemporary American philosophers Thomas Nagel, Richard Rorty and John Searle whose writings have greatly influenced how I think about social and historical reality.\(^{31}\) I owe an equal debt to Professors Ronald Dworkin, Gerald McCallum and Raymond Martin, whose writings on epistemological problems in the fields of jurisprudence and historiography have also helped me enormously.\(^{32}\)

In so far as possible, I have written this chapter in a question and answer style. The questions posed break into three convenient groupings: ontological questions (i.e., questions concerning the nature of social and historical reality); epistemological questions (i.e., questions concerning the related issues of discoverability and reliability of knowledge); and methodological questions (i.e., questions concerning the collection and interpretation of evidence). The chapter begins by addressing the preliminary question concerning the nature of social and historical reality writ large. In doing so, I acknowledge my deep commitment to both the ontological and epistemological premises of social realism. I then proceed to examine the nature and meaning of the concept 'image' as it is used in the thesis. Following Morgan (1986), I argue that an image is a cognitive frame or construct that shapes how we think and act. In exploring whether the concept 'image' can be extended from the individual case to a group or collective — in this instance to Parliament — I discuss the substantial philosophical problem associated with using a cognitive construct where a group or collective is involved. However, notwithstanding the difficulty, I conclude that for pragmatic reasons this usage is

\(^{31}\) Thomas Nagel is Professor of Philosophy at New York University. He is author of *The View from Nowhere*, and *The Last Word*.

Richard Rorty is Kenan Professor of Humanities at the University of Virginia. He is author of *Philosophy and the Mirror of Nature* and *Contingency, Irony and Solidarity*.

John Searle, former Reith lecturer, is the Mills Professor of Philosophy at the University of California. His most important recent books are *The Rediscovery of the Mind* (1992), *The Construction of Social Reality* (1995), and *The Mystery of Consciousness* (1997).

\(^{32}\) Three influential works were: Dworkin (1996), on objectivity and truth; Martin (1993), on meaning in historical studies; and MacCallum (1993), on legislative intent.
warranted. I then go on to discuss the approach that I adopted to discover the underlying images that shaped parliamentary legislation on corporate financial reporting. At this point I also identify the documentary sources that I have examined in the course of this investigation. The chapter concludes with the customary summary statement and sets the scene for the remainder of the thesis.

II

Social and Historical Reality

Let us begin by reminding ourselves what this research aims to achieve. Spurred on by a general interest in legislative processes and a specific interest in corporate financial reporting, I became keenly interested in the changing character of corporate financial reporting legislation through time. There are usually at least three interesting dimensions to any new legislation: first, why the legislation is deemed necessary; second, the detailed provisions of the enactment; and third, the success or otherwise of the enactment in achieving the intended objectives. Although this study touches on all three of these issues to a greater or lesser extent, the question that drives the thesis is slightly different. The proposition of the thesis is that corporate financial reporting legislation is, in important respects, shaped by the image(s) that Parliament entertains concerning the purpose and role of financial reporting in the economy. The research objective, therefore, is to explore this proposition by discovering these images, documenting their significance, and using them to create a periodisation of corporate financial reporting from 1844 to 1985.

The simplicity of this research question belies its deep complexity. Almost as soon as one begins to ask non-trivial questions about what may or may not have transpired in the past, difficult philosophical challenges present themselves. What is the empirical status of the past?
Is the past real and, if so, in what sense is it real? How can we know the past? And, finally, what is the status of our knowledge of the past?

Whilst philosophically very interesting, exploring the nature of historical reality is not a primary or even secondary ambition of this work. To be sure, it is an important matter and demands some attention here – but it should also be remembered that this same question has troubled philosophers for as long as there have been philosophers. For every realist philosopher who has ever believed in a social/historical reality out there, knowable, and independent of our experience of it, there has been an idealist to challenge him. The idealist’s challenge to realism comes in two versions: an all-encompassing version that attacks the very idea of a reality (anti-realism), and a more restricted version that questions whether, in the light of the difficulty of securing objective knowledge about a supposed reality, it makes any sense to speak of one. The first challenge is an ontological one, while the second is epistemological.

Today, most modern philosophers are willing to commit to some degree of ontological realism - the belief that reality exists independently of our experience of it (Nagle, 1998; Searle, 1992; Rorty, 1979; Sacks, 1989; Quine, 1969). Although it has proved impossible to provide an unassailable proof of the existence of reality independent of our experience, most philosophers are willing to accept that the natural world is made up of physical particles in fields of force and that the social world is made up of beliefs, behaviours, intentions and social institutions. Often it seems that the best and only defence of realism is the illogicality of the alternative. For example, Searle offers the appealing philosophical rebuke to idealists that their demand

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33 Idealism is the philosophical theory that the only things that really exist are minds or mental states or both. Idealists are sometimes known as philosophical skeptics.

34 I say ‘for the most part’ because it is evident that among those subscribe in the broadest sense to realism there is marked dispute over where the mind and its thoughts fit into a realist scheme.
for ultimate proof of the existence of reality (whether social or physical) constitutes an appeal to *rational argument*, a concept that they themselves reject (1991: 4).

Regrettably, in philosophical argument, it is rarely easy to say why one is drawn to prefer some arguments over others. To the extent that I have understood sufficiently what a commitment to *ontological realism* entails, I believe that it is a position to which I am personally drawn. I want to know what *really happened* in Parliament and what that meant for corporate financial reporting.

The idealist's second challenge to realism is to its *epistemology*—its premise that knowledge about the real world is accessible; that we can have knowledge of the world *as it really is*; what Nagel (1995) calls *non-perspectival knowledge*. Whether denying or not denying the existence of a reality independent of minds, epistemological idealists assert that there is no way for us to know 'reality' objectively and, therefore, that speaking *as if* there is one knowable reality is nonsensical. This position is variously known as *relativism* or *epistemological skepticism* and is characteristic of much recent *postmodern* philosophy.

Nelson Goodman, one of the leading exponents, puts it thus:

> If I ask you about the world you can offer to tell me how it is under one or more frames of reference; but if I insist that you tell me how it is apart from all frames, what can you say? We are confined to ways of describing whatever is described....we cannot test a version by comparing it with a world undescribed, undepicted, unperceived ...(1978: 70).

The American philosopher Richard Rorty shares this view:

> We need to make a distinction between the claim that the world is out there and the claim that truth is out there. To say that the world is out there, that it is not our creation, is to say with common sense, that most things in space and time are the effects of
causes which do not include human mental states. To say that truth is not out there is simply to say that where there are no sentences there is no truth, that sentences are elements of human languages, and that human languages are human creations. (1989: 5)

It is common for relativism to be misunderstood outside of academic philosophy as implying that, in matters of morality, truth, and explanation, anything goes. But few self-respecting relativist philosophers commit themselves to such an extreme view - to what the British philosopher Bernard Williams has described as the jetsam on the further shores of relativism (Williams (1998:41).35 Goodman again:

What I have said so far plainly points to a radical relativism; but severe restraints are imposed. Willingness to accept countless true or right world-versions does not mean that everything goes, that tall stories are as good as short ones......but only that truth must be otherwise conceived than as correspondence with a ready-made world. (1978: 94)

The subtlety of the distinction that these philosophers create between the world on the one hand, and truth about the world on the other, is important. Goodman and Rorty are ontological realists - they believe that there is a social, historical and physical world independent of our experience of it. It is their epistemological relativism that pushes them into distinguishing between the world and truth about the world. However, while Goodman and Rorty do not wish to be accused of saying that anything goes, they are slow to offer an alternative criterion for evaluating truth claims.

So how, at a practical level, is one to judge between competing versions of the world if an appeal to the world as it actually is cannot be allowed because we can have no independent
access to it? Indeed, how can we develop confident claims about anything? Another way of expressing this concern in the context of the historical research project envisaged here might be to ask: what stops an historical explanation or, more modestly, in case nothing stops an interpretation cold, what slows one down?

The philosopher of history, Raymond Martin, has stepped into this breach (Martin 1993). As an epistemological realist, he rejects relativism but acknowledges the epistemological bind that it presents for historians whose entire raison d'être is to interpret. Martin rejects the style of much contemporary philosophy, especially the postmodern strain. He believes that philosophers have a duty to provide some criterion by which we can figure out which among alternative interpretations of the past is best (1993: 37). For Martin, this involves finding out which among competing interpretations of the past is most likely to be true (1993: 29).

Martin’s candidate for this criterion is intelligibility – the more intelligible an interpretation is, the better it is. Thus, good history involves fitting what we know about individual historical episodes into a coherent context that makes them more intelligible than we can currently make them, and which does so in a way which gives us reason to believe that it is important for us to understand the episodes. This partially explains why we so often find ourselves willing to embrace revisions to historical understanding. It is not that we suddenly recognise that earlier understandings were wrong in some absolute sense but, rather, that when known facts are represented in ways that make those facts more intelligible we are, in a sense, getting closer to some notional idea of the truth.

In much the same way that I am drawn towards a realist ontology, I find myself subscribing to a more or less realist epistemology. I believe that objective knowledge about the past is

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Footnote: Williams, a relativist himself, was ridiculing the kind of relativist who would assert that there is no fact of the matter as to whether Native Americans originally arrived on the continent across the Bering
available and accessible. I accept, of course, that knowledge is, by its very nature, provisional, but provisional is not the same thing as subjective, especially when appropriate safeguards are in place — safeguards such as care, self discipline, critical reflection and scrupulous attention to the evidence. 36

If I have committed myself to realism too quickly it is not for the want of appreciating its problems. The entire postmodern critique of science, history, and philosophy is founded on the deconstruction of the realist assumptions that have guided these disciplines for so long. Moreover, the postmodern critique, exposing as it claims to the ideological foundations of many of these disciplines' knowledge claims, can be especially disturbing. That said, I do not subscribe to postmodernism as a philosophical position — though I admit that its questioning strategies can be very appealing. 37 Finally, I should add that, if I sometimes worry about my philosophical naivety, I take comfort in a strong sense of pragmatism. In the final analysis, as I see it, to deny the reality of the social/historical past would seriously if not completely subvert all social scientific and historical enquiry before it began. 38 Thus, even by disposition, I label myself a social realist.

If it is reasonable in this thesis to sidestep becoming embroiled in grand philosophical debate about the nature of reality and knowledge, the same cannot be said for the lower order ontological, epistemological, and methodological questions that are posed by the attempt to locate and describe the parliamentary images that have shaped corporate financial reporting.

What is a parliamentary image? Is it something real? Where and how do we to find them?

36 The terms subjective and subjectivity are used differently in historical scholarship and social scientific scholarship. In historical writing, the terms usually indicate the possible presence of bias. In social scientific writing, the terms are usually used to convey the idea that social reality is, in significant respects, created by our conscious minds (inter-subjective). The term is used above in its historical sense.

37 It is of course entirely consistent to disagree fundamentally with postmodernism yet still find it a useful philosophical strategy for challenging the status of any knowledge claim.
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What is to count as evidence for their existence? How are we to choose among the alternative interpretations of that evidence (to say nothing of the interpretations we do not even conceive)? These are some of the questions that confront this endeavour as I strive in my realist way to write a history of Parliament’s enactments on financial reporting.

III

The Nature of Images

Throughout this thesis the term *image* is used in the same sense in which Gareth Morgan used it in a series of works on organisational analyses published in the early to mid 1980’s. Morgan’s most developed application of the image construct is contained in his acclaimed book *Images of Organisation* published in 1986 and it was this work that initially inspired me to think about corporate financial reporting legislation in *image* terms.

According to Morgan, research in the fields of rhetoric, anthropology, education and psychology has demonstrated that *images* or *metaphors* exert a formative influence on scientific thinking, on the language we use, and on how we think and express ourselves (Boulding, 1956; Jacobson, 1962; Ortony, 1975; Lakoff and Johnson, 1980). Images frame or organise our experience by highlighting certain aspects of a situation, leading us to see and understand the world in distinctive ways.

In the same context, one thinks of George Kelly’s *The Psychology of Personal Constructs* (Kelly, 1955). Kelly, a clinical psychologist, set the foundations of modern *psychological construct theory* by establishing the role played by psychological constructs in shaping our

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38 Some postmodernist criticism of history is deeply subversive of historical enquiry and the social sciences in general. A good example is Ankersmit’s (1989) work on historiography and postmodernism.
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perceptions of the world about us and events in it. By construct he meant the cognitive processes through which the mind acquires knowledge and through which that knowledge is acted upon. Without a construing system, Kelly believed that we had no access to reality.

Drawing on research from these fields, Morgan has shown how many of our conventional ideas about organisations and management build on a small number of taken-for-granted metaphors or images, especially mechanical and biological ones (1986: 12). The metaphor or image works by encouraging us to understand one phenomenon (an organisation) through another (a machine), in a way that helps us understand what is common (Morgan, 1983: 602). It seems, therefore, that the power of any image, and the reason why one image might command greater allegiance than another, must lie in its capacity to help us think more clearly and effectively, either by reducing the complexity of phenomena – e.g. organisations as machines, or by helping us think in novel ways about those phenomena – e.g. organisations as psychic prisons. But images can be as much a way of not seeing as a way of seeing, and what really exercises Morgan is the way in which images can blinker and constrain our theorising (Morgan, 1986:12). A common thread in all his published work on this subject is his plea to administrative theorists to proliferate newer images/metaphors in order to advance further our insights into organisations. In his book Images of Organization, Morgan elaborated no fewer than seven images that he believed offer the promise of more interesting and rewarding ways of thinking about organisations: organisations as organisms, as brains, as cultures, as political systems, as psychic prisons, as flux and transformation, and as instruments of domination.

In a related contribution to the mainstream accounting literature, Morgan used the same images idea to construct a periodisation of significant theorising about accounting (Davis, Menon and Morgan, 1982). Through an interpretive analysis of the theoretical accounting

39 Despite the title of his book, Morgan never clearly distinguishes between the terms metaphor and image. From his usage of the terms interchangeably, it appears that he intends no significant distinction.
literature, Davis et al. (1982) claimed that four images of what accounting is or might be have shaped most theorising about accounting. This amounts to a claim that specific images create specific theorising. These four images are: (i) the image of accounting as the history of an enterprise – *historical record image*; (ii) the image of accounting as statement of enterprise value – *economic reality image*; (iii) the image of accounting as decision-useful information – *information system image*; and (iv) the image of accounting as an economic good – *commodity image*. Table 3.1 below sets out the relationship among the images of accounting identified by Davis et al. and their contemporary manifestation in accounting theory.
Table 3.1 The images that have shaped accounting theory
[Adapted from the work of Davis Menon and Morgan, 1982]

<table>
<thead>
<tr>
<th>Image</th>
<th>The image’s manifestation in accounting theory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounting as an historical record</td>
<td>The image of accounting as history – as the extension of a business owner’s memory – produced accounting theory that prioritised the qualities of objectivity and verifiability in financial information achieved in part through the application of the historical cost principle. DMM date its origins as far back as Babylonian times.</td>
</tr>
<tr>
<td>Accounting as current economic reality</td>
<td>This image of accounting as a statement of value produced accounting theory that promoted valuing of balance sheet assets at current or replacement values and the measurement of profit in accordance with well-accepted economic conventions. DMM date its origins to the early twentieth century influence of economists on accounting.</td>
</tr>
<tr>
<td>Accounting as an information system</td>
<td>This image of accounting as an information system – as a communication system – produced accounting theory that promoted the user’s decision context as the basis for developing effective models of financial reporting. DMM date its origins to the early 1960’s.</td>
</tr>
<tr>
<td>Accounting as a commodity</td>
<td>This image of accounting as an economic good produced accounting theory that promoted pricing accounting data utilising the intellectual framework of economics to price information (e.g., cost-benefit analysis). DMM date its origins to the early 1980’s.</td>
</tr>
</tbody>
</table>

Despite the originality of Morgan’s work, he says surprisingly little about the origin and nature of the images and metaphors that we use to make sense of the world. Just why we conceive of...
accounting as an historical record or an economic commodity or an information system seems not to concern Morgan greatly. To be fair, he does say a little about the influence of the social context. For example, he dates the *machine imagery* of organisation to the industrial revolution - a time when industrial organisations needed to be adapted to the needs of *real machines* (1986:23), while he links the image of accounting as current economic reality with the developments in the capital market in the early twentieth century (1982: 308). But these linkages are not especially well developed and he has not as yet presented a similar analysis of the origins of other images that have influenced organizational thinking or accounting theorising.

That said, in acknowledging his intellectual debts to a diverse a group of thinkers including Kenneth Boulding, Thomas Kuhn, Hayden White and Jacques Lacan, it seems fair to conclude that Morgan sees the origins of images as being *psychologically, socially, institutionally and ideologically* shaped. In other words, images are cultural in the broadest sense of that term. The work of the cultural anthropologist Clifford Geertz comes to mind in this context. More than any other modern cultural commentator whose work I have read, Geertz consistently urges us to recognise the ways in which *culture* can define the permissible limits of thought and action including, perhaps, even our most basic notions of rationality (Geertz, 1983).

Today, the significance of images on how we shape our world is hardly contested. Organisation theorists, literary critics, economists, sociologists, educationalists, and accounting researchers to a greater or lesser extent, accept their importance and use image both as an analytical and explanatory category (Smircich; 1983a, 1983b; Smith and Simmons, 1983). To summarise then, in the context of this thesis, the term *image* is used to mean a way of seeing, a frame of reference - a cognitive construct that shapes thought and ultimately action. No other attributes of images will be assumed in the thesis, hence questions of their
logic, their meaning, their stability and their support will all be the subject of empirical examination.

IV

Parliamentary Images

Recognising the importance of images in shaping how we as individuals make sense of the world is a start, but it seems only right to pause and ask whether the concept can be extended from the individual case to a collective such as Parliament. Does it make any sense at all to speak of Parliament as having an image in the same sense that we speak of an individual having an image? To answer this concern, we need to be clear about what we want the concept parliamentary image to mean in the context of this thesis. This in turn depends on the work that we expect this concept to be able to perform in the analytical scheme of the thesis. Is the use of the term parliamentary image intended to imply (i) that each member of parliament has the same image or, alternatively, (ii) that there is a distinct and separable parliamentary image in its own right?

Taking the former possibility first, it is clear that we commonly speak of a group of persons believing something or desiring a particular outcome. In many such cases, we are speaking more or less figuratively – that is to say, that nobody really understands such claims to refer precisely to the beliefs or thoughts of every single member of the group. But neither does it exclude this possibility - at least conceptually. For example, we have little difficulty in believing that two or three people share a belief or an intention that is precisely the same. Thus it is conceivable, at least, that conditions and circumstances could be specified in which we

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40 This is essentially the problem of reification which presents itself in the same form in much social scientific and historical research.
would be willing to recognise two or more individuals as having the same image. Our
difficulty with this notion seems to have less to do with the concept of a shared image and
more with the numbers that are expected to share it. And it is precisely in this numbers respect
that this meaning of image presents most difficulty for us here. The idea that three or four
people could share the same image seems plausible, while the idea that every Member of
Parliament could share the same image seems entirely improbable.

We may be spared abandoning the concept of image if the alternative meaning of a
parliamentary image as a separate and distinct notion in its own right can be substituted. The
strongest objection to this sense of parliamentary image would seem to be that a composite
body has no mind and therefore, by extension, cannot have an image. No mind - no images!
Yet we talk freely and precisely all the time about collectives doing individual-like things -
things that are commonly understood to require a mind. Universities examine students,
governments introduce legislation and parliaments decide. Moreover, when we speak in this
way we are not usually speaking just figuratively - we do mean that the Government actually
introduced legislation and that Parliament actually decided.

If we ask why it is that we speak so comfortably in these terms it is likely that it is because, in
certain circumstances, the advantages of this form of speech outweigh any philosophical
difficulties imposed. Another way of saying this is that we actually conceive of certain
collectives as being sufficiently like individuals to be counted as having minds. Of course this
is an entirely pragmatic justification, but one that seems entirely appropriate. Our courts of
law, for example, apply this reasoning each time they are called upon to interpret Parliament’s
intentions in enacting specific legislation. Against the possible objection that Parliament,
unlike an individual, is incapable of intent, the court will argue that, as a matter of public
policy, it is better to treat the legislature as like individuals in this respect. Moreover, it is clear that if we did not do this much of social life as we know it would be impossibly difficult.

The analogy with the present context should be clear. It may be that, in strict philosophical terms, the notion of a parliamentary image is incoherent - without a parliamentary mind there can be no parliamentary image. But this philosophical difficulty does not necessarily undermine the significant insights that are to be gained by treating Parliament as capable of having images in the same way that the courts treat Parliament as capable of having intentions. Of course, one will wish to set conditions for when an image will be recognised to exist in this special sense and when not. But what this does then is to shift the debate away from the factual question - is Parliament capable of having an image? to one such as what is to be gained by treating Parliament as being capable of having an image in this instance? Moreover, conceding either that parliamentary images are real constructs, or the lesser claim that it is profitable to speak of these as if they are real, gets us off the ground and leaves the pathway clear to examine the problems associated with discovering these images.

V

Discovering Parliament’s Images

Up to this point we have been speaking mostly of the value of metaphorical thinking for those who engage in it. It is time to ask whether anything is gained by exploring and documenting the images that have shaped thought. How we answer this question depends, of course, on the matters being investigated, but there are at least two general situations where we might agree

41 Incidentally, in corporation law an assumption similar to this is also made. It is generally agreed that, at some philosophical level, corporations are incapable of intent and therefore cannot commit crimes. However, as a matter of public policy, courts ignore this philosophical difficulty and treat corporations for most intents and purposes as individuals.
that the exercise could be valuable. One instance is in dispute resolution, where disagreement can be shown to result from alternative images of the same reality – competing images as it were. The second instance is in constructing taxonomies. This might arise where images change over time and are so distinctive that they provide the foundations for a systematic classification system that makes an entire field of writing, research, or scholarship, more meaningful. It is this latter usage that has made Morgan’s 1986 book, *Images of Organization*, so successful. He recognised that vast tracts of organisational writing and theorising over an extended period of time had been shaped by a small number of images. At the same time, he realised that he could use these images to create a taxonomy classifying that writing in a novel and meaningful way. It is worth mentioning here that Thomas Kuhn had earlier used a not entirely dissimilar logic when he distinguished between competing scientific paradigms in his classic book *The Structure of Scientific Revolutions* first published in 1962.

Unfortunately, Morgan says almost as little on the question of how he discovers images as he does about their origins. However, it can be inferred from his work that it is essentially a hermeneutical or exegetical task – that is, he discovers images through close reading, analysis and interpretation of texts. The documents or the texts needed for this research were easily identified – if sometimes difficult to secure. The basic documentary materials included: reports of Royal Commissions including transcripts of written and oral evidence taken; reports of select and departmental committees, including written and oral evidence taken; draft legislation; bills; official transcripts of parliamentary debates; transcripts of parliamentary committee revisions to bills; enacted statutes and many other sources that are set out in Table 3.2 below.

42 I use the term *discover* advisedly. Bearing in mind the earlier discussions on the nature of social reality and of parliamentary images in particular, I believe that discovery is what is being attempted.
### Table: 3. 2: The documentary evidence supporting the identification of images

<table>
<thead>
<tr>
<th>The documentary sources</th>
<th>The type of evidence and its quality</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Each Act's provisions</strong></td>
<td>The detailed provisions of the statute. Since 1869 drafting legislation has been entirely the work of parliamentary counsel. Prior to that draftsmen were involved but so also were the elected politicians who brought forward legislation.</td>
</tr>
<tr>
<td><strong>The long title and preamble to the statute</strong></td>
<td>This is usually set out at the beginning of the statute and contains an indication of the legislative purpose. The long title can be very useful for identifying, where relevant, the mischief that a statute is designed to curtail or end</td>
</tr>
<tr>
<td><strong>Interpretations accompanying the statute</strong></td>
<td>Increasingly, modern statutes contain a set of provisions with a marginal note ‘interpretation’ explaining the meaning of certain words and phrases.</td>
</tr>
<tr>
<td><strong>The legislative history</strong></td>
<td>The legislative history of specific statutory laws includes:</td>
</tr>
<tr>
<td></td>
<td>The legislative antecedents, i.e. corresponding provisions in previous enactments since repealed or re-enacted with or without modification.</td>
</tr>
<tr>
<td></td>
<td>Pre-parliamentary materials i.e. reports of committees and commissions reviewing existing law and recommending changes.</td>
</tr>
<tr>
<td></td>
<td>Parliamentary materials i.e., the text of bills as first published and successively amended on their passage through Parliament, explanatory memoranda, proceedings in committees and parliamentary debates.</td>
</tr>
<tr>
<td><strong>Contemporary expositions</strong></td>
<td>These include (i) the ways in which a statute was interpreted by the competent writers in the period following its enactment and (ii) statements issued by the Government contemporaneously with the Act indicting how the Act was understood by those responsible for its enactment. Contemporary published materials include reputable newspapers such as <em>The Times</em> and professional publications such as <em>The Economist</em>, <em>The Accountant</em> and <em>Accountancy</em>.</td>
</tr>
<tr>
<td><strong>The courts</strong></td>
<td>This includes interpretations of statutes made by the courts.</td>
</tr>
<tr>
<td><strong>Related statutes</strong></td>
<td>Typically, statutes have a place in a larger scheme or context and in certain instances in other statutes dealing with the same or related subject matter can be a useful aid to construction.</td>
</tr>
<tr>
<td><strong>The historical setting</strong></td>
<td>I have relied on a number of scholarly histories of the period under review in order to provide some insight into the general historical setting of the statutes that have been examined. Conflicts in historical interpretation are not on a scale that presented problems for the analysis here.</td>
</tr>
</tbody>
</table>
METHOD AND MEANING

I have found the task of describing my own method of making sense of these materials, extending as it did over five years of reading, internal argumentation, iterations, and reiterations, very difficult. Nevertheless, in the interests of completeness, I outline below the four-stage approach that I took in conducting this research. Before reading this summary it is important to recognise that this presentation of my method exaggerates the apparent order of the research process. Although I cite the Companies Acts (i.e., the actual legislation) as the starting point, the reality was that there was really no beginning or end to the four stages. The four stages were part of an eternal return — I was as much involved with each stage, iterating back and forward, in the final months of write up as I was five years ago when I embarked on the research. The stages are elaborated upon below:

- Stage 1: Making a preliminary determination of Parliament’s understanding of the purpose(s) of corporate financial reporting in every enactment.
- Stage 2: Creating a periodisation of Parliament’s views as to the purpose(s) of corporate financial reporting.
- Stage 3: Identifying the imagery underlying parliamentary discourse.
- Stage 4: Structuring the presentation of historical evidence and writing-up.

Stage 1: Making a preliminary determination of Parliament’s understanding of the purpose(s) of corporate financial reporting

The starting point for my investigation of parliamentary images was the enactment itself. Each relevant enactment between 1844 and 1985 was studied in order to identify as far as possible what Parliament had intended the financial reporting provisions contained therein to achieve. This involved identifying for each enactment:
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1. the principal and subsidiary objectives of the enactment;

2. the financial reporting provisions of the enactment;

3. the role of the financial reporting provisions in the Act. [At this stage each Act’s financial reporting provisions were classified as either enabling (in the sense of clearly facilitating the main or subsidiary purposes of the Act), or stand-alone (in the sense of not relating to the main objectives of the Act and therefore having some logic of their own.)]

Taking these three elements together, I made a preliminary determination of what each Act suggested was Parliament’s understanding of the objective(s) or purpose(s) of the corporate financial reporting provisions contained within the enactment.

Stage 2: Creating a periodisation of Parliament’s views as to the purpose(s) of corporate financial reporting

The first stage analysis produced a wide variety of supposed purposes for financial reporting. This was intentional – in fact, every attempt was made to be as expansive as possible at Stage 1. The Stage 2 analysis was designed to group together like-minded enactments in order to create a series of convenient subsets of legislation i.e. workable units. The basis for the grouping was the apparent views about the purposes of financial reporting identified at Stage 1. In practical terms what this actually entailed was a search for discontinuity and change in the emphasis between purposes. It was greatly facilitated when significant amendments were made to legislation and/or when completely new legislation was introduced. By the end of Stage 2, I had created a framework comprising six periods. These were [1844 to 1856], [1856 to 1900], [1900 to 1920], [1929 to 1948], [1948 to 1967] and [1967 to 1985]. Not surprisingly, these periods coincide with significant company law enactments and this was to be expected
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given the reliance placed up to this point on the actual statutes. By this stage I had not
identified anything that could be described as coherent imagery even though I suspected that
beneath the surface of each enactment the images shaping them were different.

Stage 3: Identifying the imagery underlying parliamentary discourse

Identifying underlying imagery was obviously the most challenging and time-consuming stage
of the research. The objectives of this stage were threefold: first, to establish whether different
images of corporate financial reporting were operating to shape legislation; second, to identify
what these images were; and third, to establish whether the images were sufficiently robust to
support a periodisation of the legislative era from 1844 to 1985. For the most part,
parliamentary images cannot be read off an enactment as one might read the imagery
underlying (say) 1,000 published articles in administrative science. The only way to get at a
parliamentary image is to get behind the enactments – firstly to the themes that transcend a
number of enactments, and then to the reasoning and debate that went into developing the Act.
The task involved trying to imagine the kinds of ideas that might have caused certain themes
to be dominant; that prompted legislators to propose the style of corporate financial reporting
legislation that they did; and then to discuss, debate and modify it in the terms that they did.
This was the real hermeneutical task of the thesis. It involved a constant iteration back and
forward between the legislation, the parliamentary discourse and the historical context. It
involved researching the legislative history of each enactment from the appointment of a
Royal Commission or special committee through draft bills, through House of Commons and
House of Lords debates, through committee amendments, to the final statute. It involved
examining the political and economic context of the time, other related legislation, court
judgements, and contemporary writing. It was a process of working inwards from the documentary evidence to identify the imagery and working back out to test each image candidate. Figure 3.1 below illustrates this graphically:

Figure 3.1 Discovering a parliamentary image

By the end of this process, I had identified three image candidates covering three distinct periods. These were: Corporate Financial Reporting as Revelation; Corporate Financial Reporting as Assurance; and Corporate Financial Reporting as Advice, as illustrated in Figure 3.2 below.

43 With respect to Morgan, it is not that I want to suggest that mine was a more difficult task. It is simply that organisation theorists tend to be more explicit about frameworks, assumptions, and even their metaphysical allusions than do parliamentary draftsmen.
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<table>
<thead>
<tr>
<th></th>
<th>1844 CFR as Revelation</th>
<th>1900 CFR as Assurance</th>
<th>1940 CFR as Advice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Themes</td>
<td>Exposure</td>
<td>Confidence</td>
<td>Shareholder control over</td>
</tr>
<tr>
<td></td>
<td>Secrecy</td>
<td>Correct accounts</td>
<td>directors</td>
</tr>
<tr>
<td></td>
<td>Deceit</td>
<td>Reliability</td>
<td>Fairness in reporting</td>
</tr>
<tr>
<td></td>
<td>Disclosure</td>
<td>Third party confirmation</td>
<td>Reporting to employees</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fair dealing for stakeholders</td>
<td>Credit Assessment</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Timeliness</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Analysability</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Uniformity</td>
</tr>
</tbody>
</table>

Figure 3.2: A typology of imagery shaping legislative discourse between 1844 and 1985

This schema was sufficiently distinctive to satisfy the three main criteria that I had specified, namely: (i) that each image was distinctive enough to discriminate between legislation that did and legislation that did not fit within it; (ii) that there was sufficient evidence from publicly-available parliamentary materials to support the interpretation that I was advancing; and (iii) that the periodisation provided a suitable structure for writing-up this historical study. It is fair to say that this stage of the work was the most time-consuming. It involved the drafting and redrafting of many working papers. It would serve no useful purpose to include anything but the final draft here. This document, which is set out in Table 3.3 below, summarises the end product of the search for images.
<table>
<thead>
<tr>
<th>Statute reference</th>
<th>Principal objective of the Act</th>
<th>The thrust of the financial provisions contained in the Act</th>
<th>The themes that formed a significant element of the discourse regarding financial reports</th>
<th>Dominant Image</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limited Liability Act 1855</td>
<td>To make limited liability generally available.</td>
<td>No change to corporate reporting rules from the CA 1856.</td>
<td>The protection of traders who extend credit. The commercially sensitive nature of financial data. The rights of shareholders to call for information without statutory power. The problem of policing compliance with any proposed disclosure. The inherent privacy of financial affairs.</td>
<td>The dominant ideas were: Exposing deceit Privacy Secrecy Disclosure Corporate Financial Report as Revelation</td>
</tr>
<tr>
<td>Statute reference</td>
<td>Principal objective of the Act</td>
<td>The thrust of the financial provisions contained in the Act</td>
<td>The themes that formed a significant element of the discourse regarding financial reports</td>
<td>Dominant Image</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------------------------------</td>
<td>----------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Companies Act 1907</td>
<td>To introduce a legal distinction between public and private companies.</td>
<td>Mandated that public companies file a balance sheet with Registrar of Companies.</td>
<td>The need for information to be made public as a minimum imposition for the privilege of limited liability.</td>
<td></td>
</tr>
<tr>
<td>Companies Act 1908</td>
<td>To consolidation all company law into a single statute.</td>
<td>No revisions to the financial reporting provisions already in force.</td>
<td>The nature of auditing and the responsibility of auditors.</td>
<td>The dominant ideas were:</td>
</tr>
<tr>
<td>Companies Act 1928</td>
<td>To update all aspects of company law, especially to regulate more thoroughly the issuing of prospectuses.</td>
<td>A significant update on earlier legislation. Mandated (for the first time) that a profit and loss account be presented to shareholders. Public filing of the profit and loss account was not demanded. Mandated the presentation of some modest information concerning subsidiary companies. Consolidation of accounts of groups not required.</td>
<td>The form that accounting statements should take. The desirability of holding company accounts. The hardship imposed by mandatory reporting rules. The need for group accounts. The valuation of certain balance sheet assets.</td>
<td></td>
</tr>
<tr>
<td>Companies Act 1929</td>
<td>To consolidate all company law into a single statute.</td>
<td>No revisions were made to the financial reporting provisions enacted in the CA 1928.</td>
<td></td>
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</tr>
</tbody>
</table>

**METHOD AND MEANING**

**The thrust of the financial provisions contained in the Act**

- Mandated that public companies file a balance sheet with Registrar of Companies.
- No revisions to the financial reporting provisions already in force.
- A significant update on earlier legislation. Mandated (for the first time) that a profit and loss account be presented to shareholders. Public filing of the profit and loss account was not demanded. Mandated the presentation of some modest information concerning subsidiary companies. Consolidation of accounts of groups not required.
- No revisions were made to the financial reporting provisions enacted in the CA 1928.

**The themes that formed a significant element of the discourse regarding financial reports**

- The need for information to be made public as a minimum imposition for the privilege of limited liability.
- The nature of auditing and the responsibility of auditors.
- The form that accounting statements should take.
- The desirability of holding company accounts.
- The hardship imposed by mandatory reporting rules.
- The need for group accounts.
- The valuation of certain balance sheet assets.

**Dominant Image**

- Information
- Confirmation
- Corporate Financial Report as Assurance
<table>
<thead>
<tr>
<th>Statute reference</th>
<th>Principal objective of the Act</th>
<th>The thrust of the financial provisions contained in the Act</th>
<th>The themes that formed a significant element of the discourse regarding financial reports</th>
<th>Dominant Image</th>
</tr>
</thead>
<tbody>
<tr>
<td>Companies Act 1947 consolidated in CA 1948</td>
<td>To update all aspects of company law. Represented the first major amendment to company law since 1929.</td>
<td>Radically altered the structure of financial reporting. Introduced the notion of fairness and demanded more extensive disclosures. Mandated filing of a profit and loss account and balance sheet with Registrar of Companies. Required that auditors be members of a recognised professional body of accountants. Modified the accounts filing exemption enjoyed by private companies.</td>
<td>The needs of investors for information that would permit the assessment of the real value of shares. The recognition that the profit and loss account is a more significant performance document than the balance sheet. That typical directors' reports were not providing informative assessments of the business' performance. The role of financial information in creating an efficient investment market. The capacity of financial journalists to interpret accounts for non-specialist investors. Securing financial democracy as between shareholders and directors.</td>
<td>The dominant ideas were: The purpose of financial information and the uses that it could serve. Relevant and timely information. Truth and fairness. Decision usefulness.</td>
</tr>
<tr>
<td>Companies Act 1967</td>
<td>To amend the law to require greater financial disclosure by public companies and to abolish exempt private companies and to repeal the privileges given to shipping and insurance companies concerning accounts disclosures.</td>
<td>Did not alter the structure of financial reporting. Significantly extended disclosure requirements (turnover, directors' remuneration bands, political donations).</td>
<td>That the public filing rules were being abused by public companies to hide information. The expansion of the investment management community and its need for more sophisticated information. That disclosures should have a sound justification.</td>
<td>Corporate Financial Report Advice</td>
</tr>
<tr>
<td>Companies Act 1976</td>
<td>To amend the law relating to aspects of company administration and the registration of business names.</td>
<td>Provided a more precise definition of accounting reporting periods. Introduced new definition for what could account as proper books of account.</td>
<td>The need for financial information about proprietary companies. The justification for mandating the form of financial statements.</td>
<td></td>
</tr>
<tr>
<td>Companies Act 1981</td>
<td>To give statutory effect to the EEC's Fourth Directive on Company Accounts.</td>
<td>Radically amended the disclosure provisions in company accounts distinguishing between top tier, middle tier and bottom tier companies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Companies Act 1985</td>
<td>To consolidate all extant company law. Represented the first consolidation since 1948.</td>
<td>No alterations to the financial reporting provisions of earlier Acts.</td>
<td></td>
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</tr>
</tbody>
</table>
Stage 4: Structuring the presentation of historical evidence and writing-up

If identifying imagery was the most challenging and time-consuming task, the most difficult task was deciding how to structure and then write up this thesis. Historical narrative has to satisfy two masters: it must be objective in the sense that it is supported by evidence and free from bias and, at the same time, it must be imaginative in the sense of making an argument or stating a point of view. These demands are not conflicting provided that one recognises that there are strict limits within which the imagination must be bound – limits that, in the final analysis, are created by the evidence.

In the end, I decided to structure the thesis around the three images that have shaped parliamentary legislation. These are identified, documented and illustrated in Chapters 4, 5 and 6. In presenting each of the image chapters, I have attempted, in so far as it was possible, to use a consistent style of presentation. Thus I have set out the legal and corporate context within which each image emerged, presented evidence for the existence of the image, and traced how each image links to a distinctive legislative style.

VI

Conclusion

There is no such thing as a straightforward research question. From the moment one decides to enquire into the nature of phenomena or their behaviour, with the ultimate aim of convincing others that one's insights are 'true', philosophical and practical difficulties mount up. In this chapter I have tried to tease out the most serious questions confronting this study. I have set out the philosophical positions that has guided my work. I have defined how the term parliamentary image is used here, and I have explored some of the problems associated with
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this. I have also explained in broad outline the hermeneutic research process that I adopted. Returning to the observation that I made at the beginning of the chapter concerning the absence of clear guidance on historical method, I hope the reason for this now seems a little clearer. In fact, it is something of an illusion; historians are obsessed with method – method is everything to them. For historians, method cannot be easily compartmentalised into the opening section of a research paper or treatise because its application at the level of evidential scrutiny and imaginative interpretation permeates historical studies from beginning to end.

In the final analysis, I see this thesis as a work of interpretation – it will stand or fall on how meaningful and intelligible my account of the history of financial reporting legislation is. But let there be no doubt that the ideal with which I approached this work was to present an objective historical account of the legislative development. With this in mind, I have tried to expose my writing to as many challenges as I could. Thus all significant aspects of the argument presented here have either been presented at conferences or workshops and critiqued by colleagues, supervisors and domain experts. Thus, it is the outcome of a kind of dialogue between the documents, my interpretations of the documents and other researchers. 44

44 The arguments of Chapters I, 2 and 3 were presented at staff workshops at Loughborough University Business School and at seminars at the University of Dublin. Chapter 4 was presented at the Accounting Historians' Annual Research Conference in Atlanta in 1998, McHugh (1998), and commented upon by Professor C. Napier, University of Southampton and Ms. Josephine Maliby, University of Sheffield. Professor Richard M.S. Wilson who supervised the research has read and commented in detail on all chapters.
Periodical accounts if honestly made and fairly audited, cannot fail to excite attention to the real state of a concern; and by means of improved remedies, parties to mismanagement may be made more amenable for acts of fraud and illegality.

[First Report of the Select Committee on Joint Stock Companies, 1844, p:v]

The primary duty of the directors is towards their own shareholders and your Committee have adopted the views tersely expressed by the Wakefield Chamber of Commerce that the true financial position of the company should be honestly disclosed to shareholders not less than once a year but not for public use.

[Report of the Departmental Committee on Company Law Amendment, 1895, p:xvi]

I

Introduction

The first general corporate financial reporting legislation was introduced in Britain in the Joint Stock Companies Act 1844 (JSCA 1844). The Act required that companies present an annual audited balance sheet to shareholders and also to the Registrar of Companies for public filing. The Act set no conditions concerning the form or content of the balance sheet, but as Professor
Tom Lee and others have pointed out, the balance sheets produced were rather crude tabulations of assets and liabilities, very different from multi-statement statutory reports presented today (Lee, 1970, 1981; Edey, 1956; Edwards, 1980; Parker, 1980). Nevertheless, in 1856, only 11 years after the provisions of the JSCA 1844 had come into effect, the Joint Stock Companies Act 1856 (JSCA 1856) repealed the mandatory financial reporting provisions, and for the remainder of the nineteenth century there was no statutory obligation on companies either to present accounts or to undergo audit. Almost 50 years' later, the Companies Act 1900 reintroduced the requirement to appoint an auditor who would report annually to shareholders on a balance sheet to be laid before them. Finally, the Companies Act 1907 almost brought us full circle by reintroducing the requirement that companies file a balance sheet with the Registrar – this time for public companies only. Still no attempt was made to specify in anything but the vaguest terms what the balance sheet should contain.45

These bare legislative details set the backdrop for the question that drives this chapter, viz: what kind of imagery shaped Parliament's thinking about corporate financial reporting during the period 1844 until approximately 1900? Put another way, how did Parliament conceptualise corporate financial reporting when it developed this somewhat idiosyncratic pattern of legislation? The answer, it will be suggested here, is that nineteenth century legislators conceptualised corporate financial reporting almost exclusively in what I call revelatory terms – I use the term corporate financial reporting as revelation. I have a particular meaning in mind here for revelation; I use the term to convey the sense that periodic accounts were confidently conceived of as a mechanism by which general, if vaguely-specified, 45 Section 21 of the CA 1907 states:

'Every company required to forward to the Registrar a summary under Section twenty-six of the Companies Act, 1862, shall include in that summary a statement made up to such date as may be specified in the statement, in the form of a balance sheet, audited by the company's auditors, and containing a summary of its capital, its liabilities and its assets, giving such particulars as will disclose the general nature of such liabilities and assets, and how the values of the fixed assets have been arrived at, but the balance sheet need not include a statement of profit and loss: Provided that this section shall not apply to any private company.'
characteristics and attributes of companies, and those behind them, might be exposed to public view.

A unique feature of the revelation imagery was that it shaped the legislative discourse (and aims) of two distinct shades of opinion. On one hand, it shaped the legislative discourse of those who saw the presentation of a financial report as a sign of a company's respectability, its bona fides, and as an indication of trustworthiness. At the limit, the absence of a financial report would alert the public to the possibility of dishonesty and perhaps even expose fraud. For those who viewed periodic accounts in these terms, mandatory financial reporting was essential. On the other hand, the revelation imagery shaped the legislative discourse of those who believed that a financial statement might reveal a man's personal fortune and/or damage his business' competitive position. For this group, financial reporting represented an unwarranted and unjustified invasion of privacy. It is argued here that this paradoxical feature of the revelation imagery, which prompted demands for diametrically opposite types of corporate financial reporting legislation, gave rise to a nineteenth century legislative discourse that was dominated (obsessed even) by the question of public disclosure of financial information.

The recurring discourse was also somewhat sterile in that, while the preferences for and against financial disclosure were articulated widely and often, there was almost no exploration of the competing principles and rights that were at stake in public disclosure, and which gave rise to the strongly held preferences in the first place. The essence of my argument is that, because the revelation imagery accommodated these two competing discourses with radically different legislative implications, the nineteenth century corporate financial reporting legislative programme was a rather idiosyncratic and unpredictable one.
Aside from the Introduction, the chapter is divided into three sections. Section II sets the legal context by tracing the legislative history of the joint stock company during the eighteenth and nineteenth centuries. The message of this section is that the development of companies legislation right through the nineteenth century must be read as real-time experiments in the management of the economy. Section III examines three significant episodes or moments in the development of corporate financial reporting legislation during the nineteenth century in order to support my identification of revelation as a powerful parliamentary image and to illustrate how it shaped legislation over an extended period of time. These episodes are: (i) the enactment of the Joint Stock Companies Act 1844; (ii) the arrival of limited liability and the consolidation of company law in 1856; and (iii) the enactment of the Companies Acts 1900 and 1907. Section IV summarises the argument and places it in the context of the two chapters that follow it.

II

The legislative history of the joint stock company in the eighteenth and nineteenth centuries

It was in the Roman empire that the growth of the voluntary association (societas) among individuals for trade really began - facilitated by the brilliant intellectual achievement of the Roman lawyers in creating the juristic person, a subject of rights and liabilities in the same sense as a natural person.46 Although there are similarities between the ancient Roman societas and modern associations, there was little continuity of development between the ancient societas and the company that emerged in the modern world. The modern company has its origins in the family of the middle ages: several members of the same family continued

46 A much more detailed treatment of the growth and development of the Roman societas is to be found in ed. Higgs, H. Palgrave's Dictionary of Political Economy, III 65-67, sv Partnership.
living together and carried on their craft in the same shop. The original joint household is indicated by the word *company* (*companis*), and the formula used in declaring such an association retained phrases such as ‘men who ate one bread’ and ‘men who have one bread and one wine’ for a long time (Adelson, 1957: 230). Adelson also records that, while the practice first grew up between brothers, it was later extended to fellow-craftsmen unconnected by blood, and from the manual crafts into commerce. The development and refinement of the *corporate form* and the associated development of *limited liability* took a number of centuries but by the seventeenth century the commercial advantages flowing from the corporate form were well understood (Hunt, 1936: 3).

In the early part of the eighteenth century, there were three forms of association in common use in British trade. The most common was the *partnership* – a form of association governed by the law of contract as between the contracting partners. The second form was the *joint stock company* (either with or without limited liability) created either by Royal Charter granted by the Crown or by special Act of Parliament. The third form was the *unincorporated company*, exemplified by those companies the assets of which were vested in the supervision of trustees through a deed of settlement. Although shareholders in these unincorporated companies were called *copartners*, the deeds of settlement made the shares more or less freely transferable – like those of an incorporated joint stock company. However, each shareholder was fully liable for the debts of the company although again, this was sometimes eased by clauses which limited the liability in proportion to the shareholding (Cottrell, 1980: 40). Prior to 1720, these unincorporated enterprises were often formed as a precursor to seeking a Royal Charter (Patterson and Reiffen, 1990: 167).

In 1720, these unincorporated companies were effectively proscribed. In that year, the infamous *Bubble Act* was passed restraining all attempts to form incorporated entities or to give the impression of incorporation or transferability of shares other than by Royal Charter or
Act of Parliament. There is disagreement among economic historians about whether the Bubble Act stunted Britain’s economic development, but legal scholars agree that it certainly delayed the legal development of the corporation at a time when it was making major advances in economies such as the United States and France (Hunt, 1936; Du Bois, 1971; Gower, 1956).

Understandably, British capitalists did not sit by idly while their counterparts in other countries enjoyed the advantages of corporate status and limited liability. In instances where large sums of money were needed, British businessmen continued to seek incorporation by Act of Parliament or by Royal Charter. Alongside these so-called legitimate corporations, lawyers continued to experiment with forms of association that offered some of the benefits of incorporation such as transferability of shares – in many respects similar to the unincorporated companies that existed before the Bubble Act. These unincorporated companies occupied a legal limbo in the sense that, while they most likely defied the Bubble Act, judges were slow to declare them illegal unless they could be construed as a grievance or nuisance.

By the early nineteenth century the pace of industrialisation in Britain, together with the expense of incorporating by Act of Parliament, led to demands for legislation permitting incorporation. At the same time, Parliament was finding that its legislative programmes were being delayed by the sheer number of company promotion bills it had to consider. These pressures eventually brought about the repeal of the Bubble Act in 1825.

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47 Geo. I, c.18. An act for better securing certain powers and privileges intended to be granted by His Majesty by two charters of assurance of ships and merchandises at sea, and for lending money upon bottomry; and for restraining several extravagant and unwarrantable practices therein mentioned including the raising of money by voluntary subscription for carrying on projects dangerous to the trade and subjects of the Kingdom.

48 In addition to the reluctance of judges to intervene, Harris (1994) notes that a number of ambiguities in the Bubble Act, together with a weak enforcement mechanism, a harsh criminal sanction, and widespread disregard by businessmen made the Act a dead letter.
Important as the repeal of the Bubble Act was, it went nowhere towards developing a new legislative framework for joint stock companies. Finally, in 1836, the Board of Trade appointed Henry Bellenden Ker, solicitor, to examine the state of the laws of partnership — in particular, to consider whether it would be expedient to introduce a system whereby certain persons could become partners with limited liability similar to the French law of partnership en commandite. Bellenden Ker reported in 1837 and presented a draft bill to the Board of Trade, but no legislation resulted. 50

Four years’ later, in 1841, a Select Committee was appointed to examine the law in relation to joint stock companies, but this seems to have been a half-hearted group. The Committee took three days’ evidence and appears to have abandoned its work. It took the appointment of that nineteenth century parliamentary colossus, William Ewart Gladstone, to the presidency of the Board of Trade to see through the much needed updating of company legislation. In 1843 he took the chair of a Select Committee established to enquire into the state of the laws respecting joint stock companies. The Committee reported to Parliament in March 1844, and Gladstone guided the Joint Stock Companies Act 1844 through the Houses of Parliament in June and July of that year.

Gladstone’s Act represented a watershed in the legislative development of the business corporation. It opened up incorporation as a joint stock company to all persons through the simple process of registration but, significantly, it did not introduce limited liability and, consequently, the Act did not have the impact that might have been expected. Levi (1870), who has produced the only data on the formation of new companies at the time, reports that

49 The French law of partnership en commandite permitted partners to invest capital with limited liability where they had no involvement with the management of the business.

50 Ker’s report is to be found appended to the First Report of the Select Committee on Joint Stock Companies (1844).

51 Its work was not lost forever — Gladstone appended the 1841 Committee’s evidence to the Report of the Select Committee on Joint Stock Companies (1844) which he chaired.
965 companies were formed (in the sense of completely registered) in the eleven years 1845 to 1855 inclusive - an average of only 87 per annum. With limited liability still generally unavailable, British capitalists continued to favour partnership. Furthermore, a significant majority of these partnerships were family firms - with the spectre of bankruptcy ever present, many businessmen preferred to be associated with their extended families than with outsiders (Rose, 1994, p: 64).

In the early 1850’s, agitation for limited liability resurfaced and in 1853 Viscount Palmerston appointed a Mercantile Law Commission (MLC) to investigate whether any alteration to the law of liability was desirable. In 1854, the MLC reported that in its view it was not expedient to alter the law and allow all persons at their own election to trade with limited liability [MLC 1854, p: 6]. Notwithstanding the recommendation, in 1855 a Whig government led by Viscount Palmerston, with George Bouverie as Vice-President of the Board of Trade, introduced limited liability legislation and saw the Limited Liability Act through Parliament. The Act made limited liability available to all joint stock companies except life assurance companies.

When Parliament resumed in the next session, the task of consolidating company law fell to Robert Lowe who, in the meantime, had replaced George Bouverie at the Board of Trade. A staunch supporter of limited liability, Lowe radically overhauled company legislation when consolidating the Joint Stock Companies Act 1844 and the Limited Liability Act 1855 into a new act - the Joint Stock Companies Act 1856. A further consolidation was effected in the

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52 First Report of the Commissioners appointed to inquire and ascertain how far the mercantile laws in the different parts of the United Kingdom of Great Britain and Ireland may be advantageously assimilated and also whether any and what alterations and amendments should be made in the law of partnership as regards the question of the limited or unlimited responsibility of partners, BPP Vol. XXVII, London: Her Majesty’s Stationery Office, 1854.

Companies Act 1862 and it was this Act that regulated the registration and incorporation of most joint stock companies other than note issuing banks, assurance companies, municipal corporations, and statutory companies for the remainder of the nineteenth century.

The advent of general limited liability transformed the British business corporation, but old habits died hard, and things were slow at first [Todd, 1932; Shannon; 1933]. We know from contemporary reports that most early joint stock companies were former partnerships that had opted to incorporate, or newly-formed partnerships that wished to take advantage of limited liability (Shannon, 1932). These companies typically comprised a small number of partners. The nominal or par value of share capital was set quite high and the first call was often very low – subsequent capital requirements could then be satisfied by further calls on the capital.

Of course, larger companies were established under the CA 1862, but many of the companies that we traditionally think of as needing large amounts of capital, such as those involved with railways, canals, and utilities, did not need to avail of the CA 1862, having been incorporated earlier by private Acts of Parliament. Limited liability banks could be formed under the 1862 Act but, with limited liability unavailable in respect of any notes they issued, the Act did not offer them much incentive to change their registration status. Limited liability was eventually extended to all banks' activities by the Joint Stocks Banks Act 1879. The next significant enactment was the Companies Acts 1900 but this Act did not in any way alter the nature of companies. Finally, in 1907 a further amending Act was passed creating the distinction that exists to the present day between private and public companies.  

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54 Insurance companies were excluded from this legislation because of the significant public interests at stake.

55 Section 37 of the Companies Act 1907 defined the private company as one which, by its articles: (i) restricts the right to transfer its shares; (ii) limits the number of members to fifty; and (iii) prohibits any invitation to the public to subscribe for its shares or debentures.
To summarise then, the nineteenth century saw remarkable changes take place in British company law. The year 1844 marked the beginning of a significant social experiment which, in a sense, is still continuing. It made the great legal instruments of incorporation and limited liability available to everyone by right, creating in the process a new set of economic entities. In the early stages, the outcomes must have been highly uncertain, both with respect to the likelihood of achieving the main objective of helping the economy grow, but also with respect to the control systems that were being devised to regulate the experiment. It is in this experimental context that the development of corporate financial reporting legislation during the nineteenth century needs to be understood. The idea that financial reporting might illuminate the activities of these new entities must have been as appealing to some as it was objectionable to others. In the next section we will see just how true this was, as we explore how one single concern, the public disclosure of financial information, came to dominate the legislative discourse surrounding the development of corporate financial reporting legislation during the nineteenth century.

III

Episodes in the Nineteenth Century History of Corporate Financial Reporting Legislation

The origins of accounting date back to antiquity. Elementary records from the temple economy of ancient Mesopotamia suggest that accounting and money originated there at the same time – roughly three millennia BC (Robson, 1992: 698). Thereafter, the development of trade, especially foreign trade, and the associated need for records, prompted the widespread dissemination of elementary accounting techniques. We know that by the fourteenth century balance sheets were being used for taxation purposes in Florence (Goldsmith, 1987) and that, by the late middle age and into the early modern period, the financial records of merchants had
become quite sophisticated (Yamey, 1963; Freear, 1970). Certainly by the eighteenth century concepts of income, expense, asset and liability were well understood in the commercial world (Lee, 1975).

However, it was only with the development of the joint stock company in the nineteenth century that the British legislature turned its attention to financial reporting. Thus, the formal corporate financial reporting structure that we have today grew in tandem with the development of the joint stock company. In this section, I document how the corporate financial reporting provisions enacted by these early legislators were shaped by an image of corporate reporting as Revelation. I do this by examining the parliamentary discourse surrounding three significant legislative episodes during the period 1844 until 1900. To recap, these episodes or moments are: (i) the enactment of the Joint Stock Companies Act 1844; (ii) the arrival of limited liability and the consolidation of company law in 1856; and (iii) the enactment of the Companies Acts 1900 and 1907.

The Enactment of the Joint Stock Companies Act 1844

When William Gladstone took the chair of the Select Committee on Joint Stock Companies in 1843 he took on an issue of public policy that successive governments had previously failed to address. The repeal of the Bubble Act in 1825, which at the time was expected to foreshadow a radical overhaul of companies legislation, had, until 1844, remained the last word on the matter.56 The proximate cause for the renewed interest in company legislation was the

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56 Harris (1994) reports that in 1825 Parliament expected that new legislation would be introduced in the parliamentary session following the repeal. In fact, the stock market collapsed during that recess and companies legislation was delayed.
evidence of repeated scandals in the life assurance industry.\textsuperscript{57} This also coincided with business and legal demands for a more modern system of company formation, and so the brief to Gladstone’s Select Committee was quite general - \textit{to enquire into the state of the laws respecting joint stock companies (except for banking) with a view to greater security for the public (p.ii)}. 

The questions facing Gladstone’s Committee were controversial matters of public policy. Firstly, it had to consider whether the power to form a joint stock company ought to be made available as a general right. Secondly, it had to consider whether limited liability should be made more widely available. Thirdly, in view of the fact that the answer to the first question was something of a foregone conclusion, it had to create \textit{ab initio} a legal framework within which joint stock companies might be regulated. The question of limited liability was probably the most vexed of these – there was little unanimity of commercial or legal opinion on the matter and both Gladstone and the then Prime Minister, Robert Peel, were opposed to it.\textsuperscript{58}

It is in the context of these priorities, however, that the Committee’s and Parliament’s consideration of corporate financial reporting needs to be appreciated. Corporate financial reporting was, without question, subordinate in importance to the larger policy questions concerning the granting of a general right to incorporate, and making limited liability generally available. Even in the context of designing a regulatory structure for companies, financial reporting was not the most important issue. The most important regulatory issue at the time was devising a mechanism to protect the investing public against the scourge of fraudulent promotion. Promoter fraud was the nineteenth century white-collar crime \textit{par excellence}. The

\textsuperscript{57} The most prevalent scandal, which could result from fraud and/or mismanagement, was failing to provide sufficiently against future liabilities. This was an actuarial problem as well as an accounting one but it was a significant one in supporting greater publicity of the balance sheet.

\textsuperscript{58} A considerable body of opinion at the time believed that personal responsibility was essential for successful trading. Note also that 11 years’ later both Gladstone and Peel voted against the Limited Liability Act 1855.
most common promoter frauds were: (i) using funds raised to purchase property or services from the promoter on terms that did not reflect arm's-length bargaining; and (ii) inflating the value of assets to support the issue of a larger number of shares – (known as watering stock). It was to these twin issues that most Committee and Parliamentary time was devoted.

Notwithstanding the above, corporate financial reporting was not unimportant and, at the Board of Trade, Gladstone had first hand experience of the vagaries of contemporary practices.59 Gladstone's Committee heard evidence from 23 witnesses and the majority of these were questioned about corporate financial reporting. Much of this questioning was conducted by Gladstone himself and he displayed a keen grasp of the issues involved. His questioning focussed almost entirely on two aspects of corporate reporting: (i) the general value of periodical accounts and, to a greater extent, (ii) the question of disclosing accounts to the public at large.

It is striking today to read the terms in which the businessmen, solicitors and parliamentarians examined by Gladstone discussed the wisdom of making periodic accounts public. For the vast majority who gave evidence the great benefit of mandating the presentation of periodical accounts had nothing whatsoever to do with the management of investment portfolios in the sense that we think of such management today, or with measurement of profit, or even with the value of assets. On the contrary, published accounts were conceived of as a signal; a signal that might expose fraudulent operators more quickly than hitherto – not because fraud would be evident in their accounts, but because the fraudulent operators would not present accounts.

59 Following the general election in 1841, Robert Peel had appointed him to the vice-presidency at the Board of Trade under Lord Rippon – an appointment that at the time he did not welcome. However, as his biographer Lord Jenkins recounts, Rippon had lost interest in the Board of Trade and was happy to let Gladstone do all the work and even take some of the credit (Jenkins 1995, p. 67). In 1843 he was promoted to the presidency of the Board and he took to the intricacies of railway legislation and commercial treaties with almost as much enthusiasm as he had hitherto reserved for liturgical disputes. Jenkins reports the contemporary observation of James Graham, the Home Secretary, that 'Gladstone could do in four hours what it took any other man sixteen to do and that he [nonetheless] worked sixteen hours a day'.
As Edward Bigg, solicitor, expressed it to Gladstone, the presence or absence of periodical accounts would *tend to establish the respectability of a company* (RSCJSC 1844, q.790). Given the voluntary nature of corporate reporting at the time, this emphasis should not surprise us. Whether or not periodical accounts could live up to this expectation is to some extent beside the point. But in a world fearful of company promoters, if the publication of accounts could even help to separate the good from the bad, the honourable from the fraudulent, it would constitute a significant achievement. A popular view, as Sir Peter Laurie aptly put it, again in evidence to Gladstone, was that respectable companies had nothing to fear - *they would feel proud of having an opportunity of showing their solvency and a company which would refuse to do so was a company to be suspected* (RSCJSC 1844, 1841 evidence, q.64).

Perhaps surprisingly, there were few witnesses who objected to publicity. Part of the reason for this was the large number of witnesses from the respectable end of the insurance industry – who for good commercial reasons appreciated that voluntary disclosure of financial information was already an essential ingredient in sustaining public confidence in that industry. As we now know from evidence given to later Company Law Amendment Committees, the opposition to publicity was quite vigorous. We also know from the evidence given by the Registrar of Companies to the Mercantile Law Commission in 1854 that the obligation under the JSCA 1844 to file a balance sheet was flagrantly ignored. That said, there were those who urged caution regarding disclosure. A number of witnesses saw a downside to presenting accounts. Sir Peter Laurie made point in evidence to the Select Committee (1841), as did an anonymous witness to Gladstone’s Committee in 1843, that the formality of being obliged to produce periodical accounts under an Act of Parliament, might lead some to assume, mistakenly, that the Government had in some way authenticated those accounts.

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60 Witnesses from the insurance industry told Gladstone that the reputable companies were already producing balance sheets and that they had no objections to this. I have, through my reading of these reports, formed the view that witnesses tended to be more moderate and accommodating towards Select
thereby creating an incentive for shareholders to take less care than they otherwise might in making investments. Sir Peter Laurie again:

People unfortunately take things too much for granted which are put before them by directors; and provided the directors in laying those documents before them at a general meeting, at the same time recommend a dividend, the proprietors at once assume that it is all right; they are willing to accept the dividend and they never think further of the business; if the balance sheet is sent to each proprietor, and he has a right to have it one month before the general meeting, he would then have ample time to con (sic) over its details, and if anything strikes him requiring investigation or question, he will be enabled to do so at the public meeting. [RSCJSC, 1844, q.2045]

Bellenden Ker, who had written the 1836 report on the Law of Partnership, also strongly cautioned Gladstone against imposing too demanding a disclosure regime in case it created an incentive to evade the Act [RSCJSC, q.2199]. Recall that a key objective in introducing company legislation was to encourage the so-called unincorporated companies that had been formed in defiance of the Bubble Act to formally register and incorporate under it. Bellenden Ker feared that a sudden invasion of privacy might jeopardise that objective.

There can be little doubt that Gladstone favoured more rather than less publicity of financial data but he was an astute legislator. In the end, the Committee steered a middle course, requiring the presentation and public filing of a balance sheet only, and the appointment of an auditor. He favoured a clear accountability structure between the directors and shareholders:

.....these class of cases may be met by the periodical holding of meetings, by the periodical balancing, audit and publication of accounts, and by making the directors and officers more immediately responsible to the shareholders, which may properly be accomplished by facilitating and improving the remedies available to joint-stock companies and their shareholders inter se. Periodical accounts, if honestly made and

Committees in their oral testimony than in their written testimony. Gladstone's Select Committee took oral testimony mostly while the practice in later Committees was for more written evidence.
fairly audited, cannot fail to excite attention to the real state of a concern; and by means of improved remedies, parties to mismanagement may be made more amenable for acts of fraud and illegality.⁶¹

With the benefit of 150 years’ hindsight, the idea that accounts should excite attention can appear a rather limited expectation. But this would be a harsh judgment. The early Victorian Parliament clung strongly to the idea that investing in business should involve individual responsibility in the sense that investors should be actively engaged in the management of the concerns in which they invested, as well as actively monitoring their elected directors. In this context, periodical accounts were conceived of as one of the mechanisms by which shareholders could be encouraged to act as vigilant supervisors of their directors - to make them behave like real partners so to speak.⁶²

Under Gladstone’s guidance, Parliament therefore enacted its first general corporate reporting regulations. These regulations required:

- that an audited balance sheet be produced to shareholders at the annual general meeting;
- that a copy of the balance sheet together with the auditors’ report be filed with the Registrar of Companies within fourteen days of the holding of the AGM, and that the documents held by the Registrar be available for public inspection;
- that shareholders should appoint at least one auditor in general meeting.⁶³

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⁶¹ The Report of the Select Committee on Joint Stock Companies (1844) p5.

⁶² It was also with this notion of shareholders taking responsibility in mind that Gladstone’s Committee recommended against introducing limited liability at the time. Under a regime of unlimited liability, joint-stock shareholders are, legally at any rate, just like partners and, in the event of company failure, must make up any shortfall from other partners who are insolvent. Where an investor bears the risk of unlimited liability, he cannot afford to ignore the management of the business. He must monitor management, by learning about the business and periodically collecting and analysing information. Moreover, he also needs to monitor other shareholders given that he potentially assumes their risks also. Needless to say, it is the sheer impossibility of doing this on a large scale that makes some form of limited liability so essential.

⁶³ See sections XXXV, XXXVI, XXXIX and XLIII of the Joint Stock Companies Act 1844. These are copied in Appendix B of this thesis.
Uniquely, the Act also envisaged individual shareholders having rights of inspection of the books and to copy information contained in them. Section XXXVII reads:

"...during the space of fourteen days previously to such ordinary meeting and also during one month thereafter, every shareholder of the company may subject to the provisions of the Deed of Settlement, or of any bye law, inspect the Books of Account and the Balance Sheet of the Company, and take copies thereof and extracts therefrom; and that if at any time three directors authorise in writing any shareholder to make such inspection, then at such other time the shareholder so authorised may make such inspection."

By today's standards, the JSCA 1844 imposed a relatively simple financial reporting structure. The Act demanded no special form for financial reports; it demanded no specific information disclosures; it proposed no particular valuation bases; nor did it propose any mechanism for income measurement. The reason is not because these matters were unknown then — in fact, we know from the evidence given to successive Parliamentary Select Committees that issues of this nature were understood. The reason, I am suggesting, is that the revelation image that shaped the corporate financial reporting discourse put the question of disclosure centre-stage to the exclusion of most else. The question of disclosure was one where two diametrically-opposed positions were articulated (for and against disclosure) and these could not be easily reconciled. Where today we think in terms of the multiple uses to which corporate financial statements might be put, in 1844 corporate financial reporting was about revelation, and for as long as that image dominated, the questions that would drive the corporate financial reporting legislative agenda would always be how much to reveal and to whom.

If there were winners and losers in 1844, it is fair to conclude that those who favoured greater disclosure won. The provisions of the Act were designed to reveal some basic information and at the same time to empower shareholders to obtain more information should they desire it. Furthermore, it is hard not to suspect that the public filing requirement was designed to
facilitate some minimal monitoring of the progress of companies by the Board of Trade.\textsuperscript{64} The fact that the Act did not require the presentation or the public filing of a profit and loss account was, of course, a concession to privacy. Parliament did not extend this concession to all companies. Under the Joint Stock Banks Act 1844, banks were required to disclose the balance sheet and profit and loss account to shareholders and to publish the statement at the offices of the bank.\textsuperscript{65}

The fact that the corporate reporting provisions of JSCA 1844 represented a compromise is no more than we might expect of parliamentary legislation. However, as I shall go on to show in my examination of the next two episodes, the absence of any real engagement with the principles underlying the \textit{right to privacy} and the \textit{right to information} in the context of this legislation almost ensured that the same issues would arise again.

\textsuperscript{64} The fact that the filing requirement became such a vexed issue in the debate shows that some parliamentarians recognised this possibility very clearly.

\textsuperscript{65} This was against the advice of the Secret Committee on Joint Stock Banks 1836, BPP, Vol. IX. which was opposed to compulsory disclosure, and which had recommended the publication of the balance sheet only to shareholders.
The Arrival of Limited Liability and the Consolidation of Company Law in 1856

The Joint Stock Companies Act 1844 was an experiment. In granting freedom of incorporation, politicians of the day must have known that it was bound to have significant but uncertain economic and social consequences. That said, given the conviction with which the corporate financial reporting provisions were promoted by Gladstone, it is all the more surprising that within the short space of twelve years, these requirements were deman-dated in their entirety. As we shall see, the legislative development of limited liability together with the development of the consolidation of law in the Joint Stock Companies Act 1856 (JSCA 1856) offer a very good vantage point from which to take a second reading of the prevailing parliamentary image of corporate reporting. What is especially interesting about the JSCA 1856 in the context of this thesis is that it illustrates how the revelation imagery could produce corporate financial reporting regulations the polar opposite of those introduced by Gladstone in 1844.

In 1853, nine years after the enactment of the JSCA 1844, Parliament appointed a Mercantile Law Commission (MLC) to re-examine the law of partnership, especially the question of limited liability. The composition of witnesses who gave evidence to the MLC was very different to the composition of Gladstone’s witnesses. Where Gladstone had taken oral evidence from a small group of notables, the MLC took written evidence from a broad spectrum of mercantile, commercial and legal interests.

The Report of the Commission was somewhat unsatisfactory; it extended to only three pages and appended 300 pages of undigested evidence. On almost every significant question examined by the MLC, the evidence reveals the entire spectrum of views that might be imagined. In fact, it was precisely the disparity of views that prompted the MLC to advise
Parliament to leave the law unchanged — in other words, not to introduce general limited liability.66

The MLC’s investigation of corporate financial reporting, which was structured by a series of questions very similar to Gladstone’s a decade earlier, reveals that the same revelation imagery at work:

Ought there to be periodical statements of the accounts of such limited partnerships published in such register? How ought such statements to be made up and certified; what particulars should they contain? And how would accuracy be secured and error or fraud prevented?

Do you think any publicity, different from or additional to registration, should be given to the terms on which limited partnerships should be established, or to the periodical statements of their affairs? In particular would you consider it expedient that publication in Gazettes or newspapers or in any mercantile journal to be established for the purpose should be required? Or that the particulars of the registration and statements of accounts should be printed from time to time and circulated to the customers of the partnerships, or published in any other form or manner?67

Roughly half of the witnesses favoured compulsory financial reporting requirements coupled with public disclosure. The Dublin merchant, Mr. James Perry, wrote that:

……...it should be compulsory on all registered companies to furnish periodical statements to the register annually. Such statements should be made up and certified by

66 The Hon. W. Brown probably captured the views of a number of parliamentarians when he spoke against the Limited Liability Bill in 1855:
[I hoped] this country would never lose the vantage which it possessed arising from the high character of its merchants, which they had earned by their honourable dealings, and by their never having sought for a limitation of liability which should enable them to make large fortunes at the expense of other persons. [Hansard: Vol 139: June 1855 col. 355]

67 These questions, which are to be found in the Appendix to the MLC Report at p.54, give the surface appearance of concerns wider than simple disclosure. However, as the answering makes clear, there is
the managing partners, and verified by two other partners as auditors. These statements should contain an account of the assets and liabilities of the concern, such as are usually presented by joint-stock banking companies to the proprietors. [MLC, 1854: 67]

Others favoured a limited disclosure to the shareholders, but not to the public, arguing that there would be a high degree of non-compliance. 68 Mr. C. Robertson, representative for Liverpool Chamber of Commerce, for example, wrote that:

I am confident that no small partnership would submit to have its accounts published. Such a requirement in any Act framed for their regulation would be tantamount to prohibiting them altogether. In large joint stock associations there might not be the same objection to publicity of their affairs – but even here I think the law would act very unwisely in compelling it - such a provision ought rather to be in the shape of a permission to shareholders, enabling them, whenever they desired it, to exercise a more immediate control over the managers and to obtain a more impartial audit of the accounts than they now possess. It should be a power to be exercised by shareholders at their option, and not made compulsory by law. [MLC, 1854: 220]

Other witnesses found the idea of any form of disclosure intolerable – it would be too much of inquisitorial dealing (MLC: 72) it would improperly open up the transactions of the concerns (MLC: 77) it would never be tolerated by traders that an inquisition should be held over their affairs (MLC: 47) mercantile affairs require secrecy in many cases; pending transactions involve long periods of time and cannot be published (MLC: 113).

In overall terms, the evidence for and against public disclosure of financial information was rather finely balanced. However, what marks out the MLC's evidence as different from that of little engagement beyond the simple question of disclosure. Many respondents simply answered 'Yes' or 'No' to these questions.

68 Even if this was not their genuine concern, the observation is nonetheless accurate. We know from the evidence that the Registrar of Joint Stock Companies gave to the MLC that he was very dissatisfied with the 1844 Act because it gave no powers to him to enforce compliance or to punish non-compliance with the filing requirements of that Act – requirements that were widely ignored.
Gladstone’s Committee was the strong opposition of merchants to public financial reporting. On the basis of the diverse views expressed in evidence, the MLC’s report issued in 1854 was representative and fair; it recommended that there should be no change in the existing laws. It is there that things might have remained had the Government not changed.

In 1855, a Whig government under Lord Palmerston came to power. Palmerston, a strong supporter of limited liability, appointed George Bouverie to the vice-presidency of the Board of Trade. Bouverie drafted a Limited Liability Bill which was rushed through both Houses of Parliament towards the end of the 1855 session. Such was the consternation in the House of Lords at what it saw as the unseemly haste in moving this legislation forward that it insisted, against the Government, in inserting a provision imposing on the Board of Trade the duty to approve the auditor appointed to companies – the Lords wanted the BoT to be able to look inside these companies. The Limited Liability Act 1855 (LLA) was passed on the back of further assurances from the Government that consolidating legislation would be introduced in the next session of Parliament following a thorough review of the existing law.

When Parliament resumed for the next session, the task of consolidating company law fell to Robert Lowe who had taken over from George Bouverie as vice-president of the Board of Trade in August 1855. The task involved consolidating the JSCA 1844 and the LLA 1855. Lowe’s 1856 Act could hardly have been more radical. As with any consolidation of the law, the JSCA 1856 re-enacted many of the provisions of the JSCA 1844 and the LLA 1855. However, the sections of the JCSA 1844 that provided for the maintenance of proper books of account, the presentation of accounts to shareholders, the appointment of an auditor, and the

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69 Robert Lowe (b.1811, d.1892) was an intellectual and scholar. He had been a very successful barrister before entering Parliament in 1852. He was also a regular leader writer for The Times. As early as 1852, in his second speech to the HoC, he had made his support for limited liability very clear and gained a reputation as an astute administrative reformer and free-trader. For further information see Prachett-Martin (1893).
public filing of the annual audited balance sheet were not re-enacted. Instead, in an innovation, a table of model regulations for the management of a company was appended in a schedule to the Act (Table B) that could be adopted by the shareholders either in full or in some amended form of their choosing. These model regulations contained clauses similar to the accounting and audit provisions contained in the JSCA 1844 and were, if adopted without amendment, more onerous than the provisions of the JSCA 1844 Act. Nevertheless, Table B was optional – shareholders could choose to adopt articles that imposed on the directors a duty to present audited accounts, or not, as the case may be.

How are we to make sense of Lowe's reform of the corporate financial reporting rules? My own examination of the legislative history of the CA 1856 which follows leads me to conclude that the JSCA 1856 did not, nor was it considered at the time to, constitute a radical change in corporate reporting practice. I make this claim because precisely the same revelation imagery was shaping parliamentary discourse, and the de-mandating of Gladstone's financial reporting regime was as consistent with this revelation image as Gladstone's imposition of the rules had been in the first place. To labour the point a little, the revelation imagery could accommodate both legislative outcomes.

In 1853, three years' prior to the enactment of the JSCA 1856, Robert Lowe, then an MP without portfolio, had given evidence to the Mercantile Law Commission which, although somewhat equivocal, suggests that he supported accounting publicity:

I see no objection to publication in the newspapers, as practiced in America; but I do not think a circular should be required [the circular referred to a suggestion in the

70 7&8 Victoria, c. 109, 110. Sections XXXV, XXXVI, XXXIX and XLIII.
71 They did not, however, require public filing of accounting information with the Registrar of Joint Stock Companies.
72 In reality, of course, the shareholders had little to do with the choice of articles – this being the task of the original promoters and directors.
question that customers of a partnership might be circularised with the accounts) [MLC 1854: 528].

Lowe appears to have retained his conviction on the need for corporate financial reporting right up to and including the drafting of the Companies Bill 1856. Introducing the Bill to the House of Commons for its first reading on 1st February 1856, Lowe assured the House that financial publicity would be an essential element of the legislation:

One thing indeed will be required in reference to publicity, namely that a balance sheet, which shall contain certain items, shall be filed every year with the Registrar of Companies; this I think may be fairly demanded from companies who (sic) will be saved so much trouble and expense; and as we prescribe form, we shall at least succeed in obtaining a uniform sheet, so that the shareholders will be able to compare the accounts of succeeding years, and to gather information from them, which from the practice too extensively prevailing of rendering a different balance sheet every year, they are now unable to collect. (Hansard, 1st February, 1856, Vol.140, col.134)

The Companies Bill contained three accounting sections similar though not identical to the 1844 Act mandating:

(i) the production of an annual balance sheet;
(ii) the distribution to a balance sheet to shareholders; and
(iii) the public filing of a balance sheet with the Registrar of Companies.

The Bill also contained a schedule Table B; Regulations for the Management of a Company consisting of almost 100 clauses which Lowe explained represented by-laws that could be adopted either in their entirety or in an amended form by those establishing companies. It is

73 The full text of Lowe's evidence to that Committee is reported in the First Report of the Commissioners on Mercantile Laws, BPP, 1854, Vol. XXVII pp.527—530.
74 His speech introducing the Bill was an eloquent and reasoned statement of the rationale for the consolidation of the law and the amendment of aspects of the JSCA 1844.
75 These sections are reproduced in Appendix C to this thesis.
clear from the 1st reading debate that Lowe and his colleagues saw this as a desirable innovation that would greatly facilitate companies by reducing the costs associated with devising regulations. Clauses 70-73 of Table B also contained rules dealing with the maintenance of proper books of account, the preparation of an annual income and expenditure account and balance sheet. Clauses 74-84 dealt with the appointment and responsibilities of auditors. Thus, certain of the clauses in Table B contained provisions similar to the three accounting sections in the main body of the Bill referred to above.

The Bill itself did not contain a provision for the appointment of an auditor as had the JSCA 1844. Instead, a new facility for examination by inspectors appointed by the Board of Trade was offered to shareholders. Sections L and LIV were the most significant. A fair reading of these provisions is that Lowe saw the JSCA 1856 as a significant improvement upon the JSCA 1844 which would strengthen accountability by replacing the loose audit provisions of the JSCA 1844 with a state inspection at the demand of shareholders.

After its first reading, a second printing of the Bill was ordered. In this revised printing the three accounting sections XLVII-XLIX referred to above were deleted. In other words, the second draft contained no mandatory corporate financial reporting provisions. Table B remained intact but an amendment was incorporated at clause 72, requiring that a balance sheet be laid out before each Annual General Meeting setting out the Property and Liabilities of the company. No subsequent revisions were made to the accounting provisions as presented in this second printing of the Bill. The Bill was debated in the Commons again on 23rd February and 4th April and finally in the Lords on 26th May 1856, whence it was forwarded for Royal Assent.

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76 These two sections became Sections XLVIII and LI of the JSCA 1856
There are at least four possible explanations for the volte-face over corporate financial reporting between the Bill and the Act, none of which, on the basis of the evidence we have, can be rejected outright. The first and simplest explanation is that an error was made. By error I do not mean that someone forgot to print the sections, but rather that they were omitted in the mistaken belief that there was duplication between the corporate reporting provisions of the Bill and the regulations contained in Table B. Recall that Table B was an innovation designed to save companies the time and expense of developing their own articles of association. It seems plausible that an error of this type could occur if those responsible for the final drafting had overlooked the fact that the adoption of Table B was optional.

A second and widely accepted explanation for the volte-face is that demanding corporate financial reporting in the JSCA 1856 marked Parliament’s adoption of a laissez-faire position with respect to companies generally and corporate reporting in particular. In other words, Parliament believed that the question of corporate reporting was best left to the shareholders themselves to decide upon (Parker, 1990; Edwards, 1992; Jones and Aiken, 1995). However, this laissez-faire thesis implies that a very radical change of mind had occurred in the decade since the JSCA 1844 and this has not been adequately supported or justified by those who advance this thesis.

A third explanation recently advanced by Maltby is that the provisions were dropped under pressure from capitalists who were disinclined to have information about their companies’ affairs revealed (Maltby, 1998). There is a good deal of circumstantial evidence to support Maltby’s elite capitalist thesis. As we have already seen, many of the merchants and Chambers of Commerce that gave evidence to the MLC were opposed to revealing financial information, and may have lobbied vigorously to have the requirements mandating disclosure omitted. Maltby cites evidence given to a later Select Committee on Joint Stock Companies in
When first the limited liability Act was passed, before the Companies Act of 1862, I mean the earliest Limited Liability Act, the question of publishing a balance sheet was very carefully considered and it was at first intended to make it compulsory on companies to publish balance sheets; but then a practical man, a friend of mine, came and said to the committee, 'If you make it obligatory in every case you will limit the operation and scope of this Act very much indeed, because the Act is intended to embrace a large class of cases where parties carry on a trading business, and do not want their affairs to be known, or even to be printed and published among their own shareholders, except to the extent they wish. (SCCA, 1877, q.907).

A niggling difficulty with Maltby's account is that it fails to deal with Lowe's assurance to the House of Commons that, regardless of the circumstances, presenting a balance sheet would be a minimum expectation. It must be supposed that Maltby would explain this as part of some trade-off that Lowe was willing to make in the legislative marketplace.

A more benign explanation is that Lowe withdrew the provisions believing that the market would settle the question of the appropriate level of information production – most probably by forcing companies to adopt Table B or its close equivalent. There is some evidence from Lord Thring, who collaborated with Lowe on the Bill, that this was the expectation. In a subsequent textbook which he published on the Act (Thring, 1880), he observed that:

The articles of 'Table B' relating to accounts, audit of accounts and notices, provide that true accounts shall be kept; that once at least in every year, a statement of income and expenditure, calculated to show the exact balance of profit and loss during the current year, shall be laid before the company; and that in addition a summary of the property and liabilities of the company shall be sent to every shareholder, and be submitted to a general meeting of the company. Moreover, the accounts, statement and balance sheet are to be duly audited by auditors appointed by the company. The
regulations are so well calculated to exhibit to shareholders an accurate view of the State of Affairs, that courts of justice would probably look with suspicion on articles of association in which such provisions are not introduced.

If the evidence as to why the JSCA 1856 repealed the corporate reporting provisions of the JSCA 1844 is less than conclusive, one thing at least is clear – in the mid-1850's the terms in which corporate reporting were being debated were almost identical to the terms on which they had been discussed by Gladstone's Select Committee a decade earlier. Public disclosure was the only issue of consequence in financial reporting. The questions **what** to disclose and **to whom** were so controversial that almost nothing else about accounting or reporting made its way onto the agenda. Just as the image of corporate reporting as *revelation* had shaped the debate in 1843-44, so too this same image shaped the questioning of the Mercantile Law Commission in 1853 and ultimately the provisions of the JSCA 1856.

Regardless of the precise reason or combination of reasons that explains the *volte-face* discussed above, it should not surprise us that the JSCA 1856 could emerge from the legislative process so different to its predecessor. Indeed, with so singular an image of corporate reporting shaping the terms of the discourse, it is only to be expected that the outcome could oscillate between **more** and **less** disclosure depending on a whole variety of factors such as who held the presidency and vice-presidency at the Board of Trade, the composition of the Government, and how effective the lobby process had been. In 1844, rather onerous corporate reporting legislation emerged from this milieu, while in 1856 an entirely different set of rules emerged – both consistent with its prevailing imagery of corporate financial reporting as *revelation*. 
The Enactment of the Companies Acts 1900 and 1907

This third *episode* from the nineteenth century provides a further illustration of my general argument that the *revelation image* continued to shape parliamentary thinking right up until the dawn of the twentieth century. At the same time, it also illustrates that the origins of what was to become the next dominant image of corporate financial reporting — i.e., *corporate financial reporting as assurance* — were already evident by the turn of the century. Before we examine the development of the Acts in detail, it will help to sketch briefly how corporate financial reporting legislation had developed between 1856 and 1890.

Six years after the enactment of the JSCA 1856, general company legislation was again consolidated in the Companies Act 1862. This Act, which made no alteration to the financial reporting provisions of JSCA 1856, continued in force as the main legal instrument regulating the incorporation and conduct of the vast majority of joint stock companies until 1900.\(^77\)

Two significant reviews of the general companies legislation undertaken by Select Committees in 1867 and 1877 found evidence of a growing demand for public disclosure. That said, it would be wrong to interpret these demands as the product of a changed image of corporate financial reporting. The demands for greater publicity were still animated by a concern to expose the darker side of company promotion and direction. In 1867, the Hon. Edward Cecil Curzon, Registrar of Joint Stock Companies, bluntly told the Committee that, in his view, companies *ought to register their balance sheet annually because it was continually asked for by the public who come to his Office for information* [SCLLA, 1867, q.49]. The President of the Manchester Statistical Society also believed that *companies ought to be compelled to file a balance sheet in the form in which it was set out in Table A of the CA 1862*

\(^77\) Note, however, that what was Table B in the CA 1856 Act became Table A in the CA 1862 and has remained so since then.
Interestingly, in 1877, the accountant Mr. Samuel Price became more specific when he told the Select Committee that joint stock companies should be bound to afford the public and creditors the means of knowing authoritatively what their financial position was (SCCLA, 1877, q.1193).

Novel if ineffective proposals to satisfy the competing demands of publicity and secrecy were also made. The Rt. Hon Mr. Gregory (a member of the Select Committee, 1877), for example, suggested that a copy of the balance sheet be filed with the Registrar - but be available for inspection only by the shareholders or creditors. Alongside the demands for greater publicity, questions concerning the accuracy and truthfulness of periodical accounts were beginning to attract greater attention than before. These matters were aired a number of times during the 1867 and 1877 Select Committee hearings as well as during the debates on the Regulations of Railways Bill 1868 and the Life Assurance Bill 1870, and were focussed mainly on who should perform audit work and on the duties of auditors. Calls by some parliamentarians for the Board of Trade to take responsibility for auditing were roundly rejected by those who believed that the Board would be unable to perform this function effectively. At the opposite extreme the Rt. Hon. Sir George Jessel (Master of the Rolls) completely ridiculed audited accounts when he related to the Select Committee (1877) his experience as a judge:

You have two auditors certifying the accounts who never call for vouchers; I have known that done over and over again, and I have had the auditors examined before me, and I have said, ‘You audited these accounts?’ - ‘Yes’ - ‘Did you call for any vouchers?’ - ‘No we did not; we were told it was all right, and we supposed it was, and we signed it.’ Nothing is checked, as a rule; I do not say it is the case with every

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company, but with most companies; everything is taken for granted until it turns out to be all wrong. [SCCA 1877]

The issues were clouded in confusion and it is difficult to avoid the conclusion that it was more the sheer disparity of views that the revelation image caused to be articulated, rather than the power of special interests, that stood in the way of Parliament's enacting more onerous financial reporting regulation. Neither the 1867 nor the 1877 Select Committee reports translated into legislation for the general body of companies until 1900.

By the early 1890's it was abundantly clear that limited liability had proven a huge success. According to a Board of Trade report, there were in the United Kingdom in 1894, 18,362 companies with a paid up capital of £1,035,029,835, whereas the capital of all companies in France was calculated at approximately £420,000,000 and the capital of German companies was estimated between £200,000,000 and £300,000,000.\(^{80}\) This was an achievement that the British Parliament did not wish to undermine by imposing restrictive provisions. At the same time, it was also clear that the market for accounting information was not working as efficiently as Robert Lowe and his collaborator, Lord Thring, might have hoped for in 1856. Furthermore, fraud was still rampant as Shannon (1932) portrays with such acerbity:

For the benefit of promoters and their professional allies, the lawyers and accountants, many companies were deliberately set up in order that after a short fictitious existence they might pass into the winding up process, with birth and burial expenses accruing to their creators. It would be arranged that the first charge on the capital received from investors should be the preliminary promoting and vendor charges, which satisfied the first of the trio, and a preferential charge on the winding up was the legal expenses which satisfied the other two (Shannon, 1932: 415).

\(^{80}\) This information is provided in the Report of the Departmental Committee (1895).
Thus, in 1894, the Board of Trade appointed a Departmental Committee under the chairmanship of Lord Davey to 'enquire into what amendments are necessary .......with a view to better prevention of fraud in relation to the formation and management of companies......'. The report of this Departmental Committee formed the basis for the Companies Acts 1900 and 1907 and it is with this Report that we begin our final review of nineteenth century corporate financial reporting legislation.\textsuperscript{81} The Departmental Committee did not call oral evidence - instead, it availed itself of the Select Committee Reports of 1867 and 1877 and sought submissions from a broad spectrum of interested parties including the Associated Stock Exchanges and Chambers of Commerce from around the United Kingdom. The examination of corporate financial reporting returned again to the familiar theme of public disclosure. Submissions were invited on two questions:

\begin{quote}
What is your opinion as to the expediency of requiring joint stock companies to file, with the Registrar of Joint Stock Companies, annual balance sheets for the information of prospective creditors? and
\end{quote}

\begin{quote}
Do you recommend making fixed statutory provision as to the audit and balance sheets instead of leaving these matters to the articles of association? If so, have you any suggestions as to the nature of such provisions, or as to the principles upon which in such balance sheets the assets ought to be valued, i.e., do you think the assets should be stated at what is believed to be their true value, or at their cost price, or at their market value at the time?\textsuperscript{82}
\end{quote}

The replies to these questions, not unexpectedly, revealed much the same degree of diversity as those given in evidence to the Mercantile Law Commission 40 years' earlier in 1854. The Registrar of Joint Stock Companies, Mr. J.S. Purcell, told the Committee that \textit{upwards of 100}

\textsuperscript{81} A Departmental Committee on company law amendment that reported in 1905 is also relevant in the context of the CA 1907. However, it is also the case that some of the recommendations of the 1895 Committee that were not acted upon in 1900 were brought forward again in 1907.

\textsuperscript{82} These questions, numbered 8 and 10, are to be found in the Appendix to the Report of the Departmental Committee on Companies Acts Amendments (1895) at p.84.
people came daily to his Office expecting to find the balance sheet of companies only to be disappointed. While he understood that there would be considerable objections to filing profit and loss accounts, he could see no reason why an assets and liabilities account should not be provided. Mr. Samuel Ogden, President of the Association of Trades Protection Societies of the United Kingdom, believed that it was necessary to show the real position of the company's capital from time to time and that this could only be done by compelling companies to file the yearly balance sheet.

There were the dissenting voices also. Mr. Harold Brown, a solicitor with the firm of Linklater & Co., believed that the compulsory disclosure of balance sheets was directly contrary to the principle which prudent business men and traders pursue with reference to their own businesses, viz., they keep their information jealously to themselves. He dismissed the claims of small shareholders stating that in his experience the larger and more thinking portion of the shareholders communicated with the directors of the company receiving due consideration.

Of the 35 Chambers of Commerce from around the country that replied to the disclosure question, twelve bluntly answered 'No' (i.e. that there should be no legal provisions for the periodical disclosure of financial position).

A third group, which included the Associated Stock Exchanges and a sizeable minority of Chambers of Commerce, supported public disclosure — provided that so-called private companies could be excluded from the requirement. The Edinburgh Stock Exchange, for example, feared that forcing publication on private and semi-private companies might

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83 See Memorandum of Mr. J. S. Purcell, Registrar of Joint Stock Companies, Appendix to Report of the Departmental Committee on Companies Acts Amendments (1895) Part 1, No.4.
84 See Memorandum of Mr. Samuel Ogden, Appendix to Report of the Departmental Committee on Companies Acts Amendments (1895) Part 1, No.5.
discourage the formation of such concerns\textsuperscript{86} while the Bradford Chamber of Commerce considered that private companies would be unfairly hampered in competition.\textsuperscript{87}

At that time, however, there was no obvious mechanism available for imposing a public filing requirement on some companies and not on others. There was no legal distinction between so-called private and public companies. The Departmental Committee concluded that, as far as periodical accounts was concerned, it had been persuaded by the Wakefield Chamber of Commerce:

The primary duty of the directors is towards their own shareholders and your Committee have adopted the views tersely expressed by the Wakefield Chamber of Commerce that the true financial position of the company should be honestly disclosed to shareholders not less than once a year but not for public use.\textsuperscript{88}

In what amounted to a re-run of the debate on the JSCA 1856, the secrecy which was clearly valued by private capitalists was not interfered with in the CA 1900. However, capitalists were not to have their own way entirely. On the advice of the Departmental Committee, and against the wishes of many private businessmen, Parliament introduced a rudimentary annual audit requirement for all companies. I will go on in the next chapter to suggest that this small first step marks a suitable point at which to mark the beginnings of a transformation of the imagery shaping corporate financial reporting discourse. For the moment, suffice it to say that it marked an expansion of the corporate financial reporting agenda that had been dominated for so long by the issue of public disclosure.


\textsuperscript{88} Report of the Departmental Committee on Company Acts Amendments (1895).
Even before the CA 1900 had come into operation, it must have been clear that the question of accounting publicity had not been resolved – merely deferred. All that the CA 1900 could achieve was to ensure that shareholders would receive a copy of the annual balance sheet - it still left creditors and the growing market of investors without adequate information. Within five years, exactly the same questions regarding public disclosure of corporate financial statements resurfaced at the enquiry conducted by the Departmental Committee on Company Law Amendment (1905). This time it was the House of Lords that made the running. The Companies Bill produced by the 1905 Committee came before the House of Lords in 1907 (in advance of the Commons). It proposed inter alia that a legal distinction be created between private and public companies. It also proposed that a balance sheet filing requirement be imposed upon all companies. Introducing the Bill, the Earl of Granard told the House that the main principle of the Bill was to afford effective information regarding companies to those who have business dealings with them:

> We all know that the Legislature cannot make a man prudent or wise. But this Bill in my opinion, certainly safeguards the fool from the knave; and this is I think, best arrived at by giving ready facilities by which the public can inform themselves with regard to any material facts affecting the company which may be in question. Another step in the same direction is the provision that every company is required to forward to the Registrar a statement of its assets and liabilities in the form of a balance sheet. This change has long been demanded by a large section of the mercantile world, but has been opposed by a minority for fear that giving such information would disclose trade secrets. In order to meet this point the clause provides that the balance-sheet filed need not include a statement of profit and loss. [Hansard, Official Report, HoL, 14 March 1907, col. 167]

The public filing measure received a great deal of support in the Lords – so much so that Lord Balfour of Burleigh, who attempted to move an amendment designed to secure that the requirement would not apply to a private company, eventually withdrew his amendment in
deference to the weight of opinion on both sides of the House [Hansard, Official Report, HoL, 2\textsuperscript{nd} May 1907, col. 1015]

However, Lord Balfour may have underestimated the support for his proposal outside the House of Lords. By the time Lloyd George, President of the Board of Trade, brought the Bill to the House of Commons three months' later, the Government had decided, he said, following thorough discussions and canvassing of views in financial circles, not to demand the public filing of private company balance sheets. The only objection raised against this decision came from the Rt. Hon. Mr. Cave who wanted the requirement removed for public companies also! According to Mr. Cave, accounts ought to be confined to the shareholders and not thrown open to the gaze of everybody [Hansard, Official Report, 8\textsuperscript{th} August, 1907, col. 475].

Serendipitously, the creation of a legal distinction between the private and public company in the Companies Act 1907 (a distinction not motivated by the issue of corporate financial reporting) provided Parliament with a basis, whatever its merits, for imposing differential reporting requirements on different classes of company. At a stroke, it could accommodate the demands of those who wished to keep the affairs of smaller companies secret while simultaneously satisfying the demands of those calling for greater financial publicity. From that moment on, a dual financial reporting structure was created in British company law.

In the context of the images of corporate reporting, it was the creation of the legal distinction between private and public companies that I believe marked the turning point in re-orienting the corporate financial reporting agenda. In a significant respect the CA 1907 effectively said that the financial affairs of private companies were the business of the shareholders alone; the public, the creditors, employees, etc., had no rights to information save those agreed upon by the shareholders. The affairs of public companies were, by contrast, open in limited respects to the public. Whether this was a wise move is not at issue here. The effect as we shall see in the
next chapter, as far as corporate reporting is concerned, was to shift the legislative focus towards public companies and an entirely new agenda shaped by a different image of corporate reporting replaced the obsession with disclosure.

IV

Conclusion

In the greater scheme of nineteenth century British parliamentary affairs, company legislation and financial reporting regulation were, relatively speaking, minor matters. Or, perhaps it would be more accurate to say that, from the perspectives of those who have written the political, social, and cultural history of the nineteenth century, they were minor matters. In either event, the result is that today the legislative history of nineteenth century corporate financial reporting is little more than a footnote to the larger historical narrative of the period.

I make this potentially dismissive claim only to put nineteenth century financial reporting into some perspective. There are no significant contemporary reflections by the great legislators of the nineteenth century about their roles in developing company legislation. Gladstone’s voluminous diaries contain only the tiniest reference to his work on the JSCA 1844, and none of his biographers devote any serious consideration to the part he played in paving the way for what has since become the main form of business association. The passing of the Limited Liability Act 1855 – arguably the most significant company legislation of the second millennium - merits only passing reference in the biographies of Lord Palmerston and Robert Lowe.

What I have attempted to show in this chapter is that there is a legislative history to be written that concentrates on corporate financial reporting in the context of the development of the joint
stock company. More specifically, I have attempted to show that, from the passing of Joint Stock Companies Act 1844 up to and including the Companies Act 1900, the British Legislature conceptualised corporate financial reporting as an instrument of revelation. What this meant was that the terms in which corporate financial reporting was discussed in Departmental Committees, in Select Committees, on Commissions and in parliamentary debates were shaped by the kind of questions that such a conceptualisation provoked. In the normal course of events, one might expect that revelation image would direct attention to two questions: what to reveal and to whom to reveal it. The three episodes that I have examined here indicate that Parliament's concern was primarily with the latter and only to a very limited extent with the former.

This should not surprise us. The image of corporate financial reporting as revelation is unique among the three images that have shaped parliamentary thinking in that it accommodated the diametrically-opposed preferences of two groupings: those who favoured revelation and those who opposed it. It is precisely for this reason that the debate rarely got away from the more controversial of the two questions – should financial information be made public or not? It is for this reason that I observed earlier that the entire history of nineteenth century corporate financial reporting legislation can be read as the struggle over publicity.

Gladstone's 1844 Act is a good example of how the revelation image produced legislation demanding corporate reporting provisions. The consolidation of company law 12 years' later in the JSCA 1856 is an example of how roughly the same debate about corporate reporting could produce a significantly different and more permissive reporting structure. The debate over the CA 1900 illustrates two things: it illustrates how little the terms of the debate had changed in 50 years and, at the same time, it provides evidence that the seeds of a new image of corporate reporting had been sewn.
On a more general note, I am convinced that the revelation image has a parallel with the Victorians' wider cultural concerns about the boundary demarcation between the public and private spheres. Many political, cultural and literary historians of nineteenth century Britain have pointed to the Victorians' dual obsessions - social class and privacy. Although at this point I do not wish to promote the debate over the publicity in corporate financial reporting to the status of an episode in the Victorians' search for identity, I do believe that it may be possible to do just that.

In the next chapter, I turn to the second of the three images that shaped parliamentary thinking about corporate financial reporting – assurance.
"........in general what I would like the Government to do between now and the period when the Committee stage of the Bill begins is to see whether they cannot take some additional measures, not to protect the fool entirely from his folly, but by so tightening our legal machinery, to say to the great body of investors, who cannot possibly know all that they should know about the concerns in which they are asked to invest, 'We have done what we can to protect you against the consequences of your folly'."

[The Hon. Mr. Crawford during the second reading debate on the Companies Bill, *Hansard Official Report*, 21st February 1928, Col. 1507]

I

Introduction

In Chapter Four we saw that during the latter half of the nineteenth century, parliamentary thinking about corporate financial reporting was shaped by a *revelation* imagery. We saw how the *revelation* imagery focussed legislative discourse about corporate financial reporting almost exclusively on the principle of public disclosure. In examining that period, I included
the legislative development of the Companies Acts 1900 and 1907 as the third example in a sequence of legislative episodes that illustrated the tensions between the competing demands of publicity and privacy regarding the financial affairs of companies.

We saw also, however, that by 1900 it was becoming increasingly clear that the secrecy that had traditionally surrounded companies' finances was unlikely to be sustained for much longer. The introduction of a requirement that all companies appoint an auditor in the Companies Act 1900, together with the introduction of a balance sheet filing requirement for public companies in the Companies Act 1907, effectively meant that the notion of an unassailable or fundamental right to privacy in company matters had ceased to be realistic.

In this chapter it will be argued that the introduction of the audit provision and the public filing provision, which were consolidated in the Companies Act 1908, signalled a transformation in the imagery shaping Parliament's conception of corporate financial reporting away from revelation and towards a more active assurance image. By assurance in this context I mean inspiring or tending to inspire confidence. Thus, instead of the interminable debate about the principle of public disclosure that had dominated nineteenth century legislative discourse, we witness the emergence of a discourse focusing on the capacity of the corporate report to deliver accurate and reliable financial data.

The assurance image can be discerned to be operating on two levels. First, parliamentary attention turned to devising a form of financial report that would communicate some basic but accurate indicators about the financial status of a company – a kind of affirmation by its directors concerning the financial health of a company. Second, Parliament began to take the whole question of reliability in corporate financial reporting much more seriously than before – insisting on third party confirmation from 1900 onwards. It is not suggested here that this new image was in any sense fully elaborated when the initial steps were taken in 1900 and
1907. However, by the time the next major review of company law was undertaken in the mid-1920's, culminating in the Companies Act 1928, the influence of this new imagery can be clearly seen. Using a presentation structure similar to that used in Chapter 4, I explore this changing image of corporate financial reporting by examining two legislative episodes that I have labelled: (i) designing the statutory financial report; and (ii) inventing the statutory auditor.

Aside from the introduction and conclusion, the chapter contains two main sections. Section II provides a general overview of the corporate economy during the early part of the twentieth century in order to provide a sense of the context from which the assurance image of corporate financial reporting emerged. The message of this section is that, despite the continuing dominance of personal capitalism in the early twentieth century, pressure for greatly-enhanced corporate financial reports was building up among corporate stakeholders including organised labour, creditors, investors and the public.

Section III examines the influence of the assurance imagery by exploring the two legislative episodes referred to above. The first episode – designing the statutory financial report – tells the story of the Labour Party's efforts to force a Conservative Government to enact a blueprint for modern statutory financial reporting in the Companies Act 1928. My examination of this issue will show that the terms in which corporate reporting was discussed at that time had shifted very explicitly away from concerns about whether it was appropriate to legislate for disclosure to questions about the content and accuracy of financial statements.

My examination of the second episode – inventing the statutory auditor – tells the story of Parliament's creation of the statutory auditor. The precise claim is that the statutory auditor

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89 The Companies Act 1928 was an amending act. The Act was subsequently consolidated with extant law in the Companies Act 1929.
AFFIRMATION AND CONFIRMATION

was invented to accommodate the demands that the assurance image imposed, while at the same time being constitutive of that image. Together, these two episodes: the design of the statutory financial report and the invention of the statutory auditor, serve as illustrations of what I have termed the assurance image of corporate financial reporting. Before going on to examine these episodes in detail, it will help if I say a little more about the corporate context within which these legislative changes were occurring.

II

Developments in the Corporate Economy during the First Quarter of the Twentieth Century

Freedom of incorporation with limited liability triggered off waves of economic development in Britain during the latter half of nineteenth century.90 By 1871, over half the working population was employed in factories and Britain had become a world leader in industries such as cotton, textiles, pottery, brewing, and iron smelting (Hannah, 1976:10). The family business had been the principal agent of this economic growth. It had matured over 50 years and a high value was placed on the trust that was part and parcel of that organisational form (Rose 1994: 67).

Once established, the family firm proved remarkably resilient in influencing the form of business organisation well into the twentieth century. Whereas in the United States ownership and control had become increasingly divorced from about 1880 onwards, in Britain personal capitalism persisted well into the twentieth century. Payne (1967) reports that, in 1914, almost 80 percent of all registered joint stock companies were private. Moreover, even

90 Alternatively, it might be argued that the freedom of incorporation was itself the result of pressures created by these same economic developments. The truth probably is that these events were mutually reinforcing.
among British public companies, a high degree of family control was a striking feature that differentiated British from American capitalism.

By the end of the nineteenth century, industry consolidation had begun in a modest way. But, as Hannah notes, in 1880 the largest 100 firms only accounted for 10 per cent of the market, compared with their 40 per cent share a century later (Hannah 1976:13). Even as merger activity grew in scale between 1900 and 1930, it remained idiosyncratically British in style. Wilson reports how many merged companies, rather than integrating production, distribution, and management, adopted a federal structure which allowed the former owners to continue running their own businesses without too much interference (Wilson 1995:103).

It was this same commitment to personal capitalism that Alfred Chandler has argued was a root cause of Britain's economic decline in the twentieth century. Although this is a controversial argument, none of those who dispute it disagree with Chandler's depiction of British capitalism as predominantly personal. Wilson (1995) points to some of the practical manifestations of this commitment to personal capitalism: a desire to ensure family succession; a preference for the gifted amateur; an antipathy to business education; a reluctance to appoint managers to the boards of companies; and a preference for using retained profits for expansion so as not to dilute family ownership. To this list we might add a

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91 Britain's economic decline has been debated for much of the twentieth century. It is widely accepted that, for what was essentially a mature economy the growth rate between 1870 and 1914 was unexceptional to poor (Collins 1991, p:2). The most significant manifestation of Britain's failure was the dramatic way in which relatively new American firms overpowered established British firms in the manufacture and distribution of mass produced machinery including sewing, office and agricultural machinery, automobile and household appliances (Chandler, 1984). In a similar fashion, the Germans came to dominate the chemicals and synthetic dye industries so critical to Britain's huge textile industry. Chandler, quoting the research of Byatt (1979), observes that, in 1912, two thirds of the output of the electrical manufacturing industry in Britain was produced by three companies, the subsidiaries of the American General Electric and Westinghouse, and the German Siemens. 92 American historians have tended to be very critical of British economic performance relative to American and German performance from about 1870 until 1950 (Landes, 1997; Chandler, 1984, Lazonick, 1983). There has been a strong backlash from English historians who have tried to show that, whatever the cause of the decline it was not the system of personal capitalism - a system which it is argued was economically rational in the British context (Pollard, 1989; Daunton, 1992).
strong preference for secrecy about the financial affairs of companies and their controlling families. 93

But, the forces of privacy were not monolithic – there were countervailing forces at work, emanating from within the fledgling labour movement and also from the capital market. As the early decades of the twentieth century unfolded, labour representatives became especially troubled by the secrecy surrounding private and public company finances. They claimed that their attempts to secure improved conditions for employees were hampered by the absence of unambiguous financial measures and, in some instances, by the absence of any financial information about the companies with which they were negotiating. 94

In the capital market similar pressures were building up. From the turn of the century the number of domestic companies seeking to raise capital from the public began to grow at a faster rate than before. In 1893, securities appearing under the headings breweries and distilleries, commercial and industrial, and iron coal and steel (the three categories of the official list that covered firms engaged in domestic industry and trade), had a nominal value of £160.8m, only 2.5% of the total value of quoted securities [see Table 5.1 below]. By 1913 this had grown to £872.2m or 7.7% of the total value, and it continued to grow in absolute terms. 95

93 Encouraged no doubt by the exemption from public filing granted under the Companies Act 1907.
94 Trades unions had to wait until the Companies Act 1967 before filing exemptions were finally abandoned for all limited companies.
95 The economic historian W. A. Thomas has suggested that the specific factors that were significant in bringing about this increased demand for capital were: (i) the growing trend among established family firms to go public through the sale of securities on the market; (ii) the increase in the optimum size of firms due to technical progress; and (iii) the inadequacy of traditional pre-war sources of local private finance. On the supply side, he pointed to the increasing preference after the war for paper claims that were marketable and highly liquid (Thomas. 1978, p:25).
Table 5.1 Nominal value of securities quoted on the London Stock Exchange

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<tr>
<td>Breweries and distilleries</td>
<td>52.1</td>
<td>118.4</td>
<td>103.8</td>
<td>120.8</td>
<td>188.0</td>
<td>243.0</td>
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<td>Commercial, Industrial etc.</td>
<td>93.3</td>
<td>256.5</td>
<td>438.6</td>
<td>669.2</td>
<td>1,215.7</td>
<td>1,629.5</td>
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<tr>
<td>Iron, Coal, Steel and Copper</td>
<td>15.4</td>
<td>287.2m</td>
<td>329.8</td>
<td>413.1</td>
<td>370.0</td>
<td>312.3</td>
</tr>
<tr>
<td>Sub total: domestic</td>
<td>160.8</td>
<td>662.1</td>
<td>872.2</td>
<td>1,203.1</td>
<td>1,773.7</td>
<td>2,184.8</td>
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<tr>
<td>Total nominal value of entire exchange</td>
<td>6,561.1</td>
<td>8,833.8</td>
<td>11,262.5</td>
<td>16,576.1</td>
<td>18,476.2</td>
<td>23,021.2</td>
</tr>
<tr>
<td>Domestic % of total</td>
<td>2.4%</td>
<td>7.5%</td>
<td>7.7%</td>
<td>7.3%</td>
<td>9.6%</td>
<td>9.5%</td>
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Source: Extracted from data presented in Morgan and Thomas (1969), Appendix: Table V. (Original sources: Burdett's Official Intelligence, Stock Exchange Official Intelligence and Stock Exchange Official Year Book)

Although this level of growth in public share ownership did not radically alter the control structure of the British corporate economy, at least up until 1930, it was sufficiently large to ensure that shareholders, and perhaps investors even more so, became an important constituency in the economic and business life of the country. The Times for example, carried daily reports on stock exchange activity as well as quite comprehensive analysis features when the annual results of well-known companies were announced. As the public's interest in companies and investment grew after World War I, it was probably only a matter of time before conflict between the various stakeholders in companies would emerge.
Certainly by the mid-1920's it seems that the interests of directors had, in certain instances, become markedly opposed to the interests of shareholders. In 1927, Sir Lennox Robinson wrote a long letter to the Editor of The Times in which he outlined a proposal to form a Shareholders' Protection Association which would redress somewhat the imbalance of power by actively representing the interests of investors and shareholders [see Appendix D]. His letter sparked off a debate that continued for several months in the letters pages and was raised in the House of Commons during the debate on the Companies Bill 1928. A contributor to The Times letters debate, one Arthur Haslam, who harboured doubts about the efficacy of a shareholders' protection association, captured the essence of the prevailing concerns about the accuracy and reliability of corporate financial reports a little more succinctly than did Robinson:

Dear Sir,

There may be some scope for a shareholders' association to study facts, to formulate proposals and to educate the public. I have in fact been actively engaged in the latter endeavour during the past few years. Nevertheless, experience teaches that the desired reform with regard to company accounts will not be secured without further legislation.

The report of the Greene Committee was published in 1926, yet it is idle to suggest that even their moderate recommendations on the subject of accounts have been generally followed by directors. Many balance sheets still appear to be drawn up with the object of concealing more than they reveal and an eminent accountant recently stated that a number of balance sheets which have come to his notice were nothing less than a disgrace to the city of London.

As the inadequacy of many balance sheets of public companies occupied the attention of the accountancy profession for many years

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96 See the contribution on this matter by Colonel Wedgwood during the second reading of the
without apparent result does it not then follow that to rely on action by the stock exchanges, the Institute of Directors and the others will be useless without legislation? The Companies Bill has already passed the second reading, and so it is hoped there will not be long to wait for new laws. That the framers of the legislation refrained from recommending various safeguards pressed upon them with regard to the form of accounts is true but Mr. H. Williams winding up the debate suggested that everything with regard to publicity that is asked for could be brought into the Bill by amendments. 97

Sincerely,

Arthur Haslam

In characterising corporate Britain during the first 30 years of the twentieth century then, two things need to be borne in mind. Firstly, the private company continued to be the organisational form of choice for most capitalists, enjoying as it did the legislative protection to privacy concerning its financial affairs. However, the demand for more information about these companies was building up in a number of quarters. Secondly, the increased visibility surrounding public companies after 1908, and the evident poor quality of many of their corporate financial reporting practices, also meant that public concern about these companies was growing. In the next two sections I will show how the legislative developments in corporate financial reporting emerging from this milieu were shaped by the assurance imagery.

97 Letters to the Editor, The Times, 10th February 1928.
AFFIRMATION AND CONFIRMATION

III

Episodes in the Early Twentieth Century History of Corporate Financial Reporting

Legislation

From 1856 until 1900, British company law imposed no corporate financial reporting regulations on the general body of companies. The absence of mandatory CFR rules during this period contrasts sharply with developments that took place subsequently, beginning with the Companies Act 1907 and continuing throughout the century. In Chapter 4 it was argued that the absence of mandatory CFR rules during the nineteenth century could be understood in the light of the revelation image that was shaping the corporate financial reporting legislative discourse of the period.

In this section and in the next chapter it will be suggested that the period after 1900 can also be understood in the context of the imagery that was shaping parliamentary discourse. The thesis identifies two further images. The first of these, corporate financial reporting as assurance dominated legislative discourse during the period 1900 to 1940 and is explored in this section. The second, corporate financial reporting as advice is explored in Chapter 6.
Designing the Statutory Financial Report

I will begin my review of this episode by recalling that, in 1907, at the eleventh hour, the House of Commons amended the Companies Bill 1907 in order to exempt private companies from the proposal contained therein that all companies should file a balance sheet with the Registrar of Companies. The creation of differential corporate financial reporting requirements between private and public companies was facilitated by the creation of the legal distinction in the same Act between public and private companies. It is interesting to speculate on what might have happened had a legal distinction between private and public companies not been created. My guess is that the public filing requirement would not have been enacted at that time.

From the point of view of the argument being developed here, however, the amendment was significant. The public filing requirement served to put corporate financial reporting squarely and permanently on the public and legislative agendas. Once public financial reporting had been mandated, it was inevitable that interest in the content and quality of reports would develop rapidly. In the years following the Companies Act 1907, this growing interest became visible in a number of ways. Parliamentary questions regularly surfaced seeking clarification about breaches of the filing rules, about the financial standing of companies, and about the relationship between shareholders, directors, and labour. At the same time, the rapidly expanding accounting profession served to heighten awareness of financial reporting matters. Furthermore, as the number of companies on the Register grew, the level of public anxiety became more vocal and pressure for a review of company law built up. The First World War and its aftermath got in the way of an early comprehensive review of company

98 Recall from Ch. 4 that the Loreburn Committee had made this proposal and the House of Lords had debated and passed the measure before the Bill was read in the House of Commons.
99 There were 90,000 private companies on the register at the time, and if my review of the nineteenth century legislative history of corporate financial reporting has shown anything it is that the interests
Finally, in January 1925, the Board of Trade appointed a Company Law Amendment Committee chaired by Mr. Wilfred Greene, K.C. to consider and report on amendments needed to the Companies Act 1908.

The Greene Committee discovered a litany of problems with early twentieth century corporate financial reporting practices. It found, inter alia: that there was no direct statutory obligation on companies to keep proper accounts [para: 67]; that in many instances companies' books were so defective and confused that it was impossible to find out what had become of goods and money belonging to it [para: 67]; that the information given by certain companies' accounts was so scanty that the true position of the companies could not readily be ascertained [para: 69]; that in certain holding companies the information provided to shareholders was unintelligible without fuller details as to the position of the subsidiary and associated companies [para: 71]; and, that by exploiting the poor drafting of the filing provision of the Companies Act 1908, companies were choosing to file the same balance sheet year after year.101

Surprisingly, the Committee’s direct corporate financial reporting recommendations appear decidedly minimalist when placed alongside the failings identified above. They amounted to the following:

(i) a recommendation that directors should be made responsible for seeing that proper books of account are kept; and

opposed to revelation were more powerful than those in favour of it. Restricting the public filing requirement to public companies only may, with hindsight, have been a shrewd political compromise.

100 A review of company law had been undertaken by a Company Law Amendment Committee, chaired by Lord Wrenbury, which reported in 1918. However, this Committee had limited terms of reference - formed as it was to consider whether there were any special amendments needed to company law in the light of the conclusion of WW1 and the need to rebuild the economy.

101 Section 26(3) of the Companies Act 1908 required that the annual summary returned to the Registrar of Companies must (except where the company is a private company) include a statement, made up to such date as may be specified in the statement in the form of a balance sheet, audited by the company’s auditors. The failure to specify that it should be the most recent or the last balance sheet presented to shareholders is the loophole that was exploited.
(ii) a recommendation that a profit and loss account should accompany the already mandated balance sheet for shareholders.

There were no recommendations about the form that the financial statements should take, or regarding their detailed content, or about the valuation rules to be applied in measuring profit, assets or liabilities. The Report acknowledged the concerns that had been expressed to the Committee regarding the failure of many companies to voluntarily present consolidated accounts, but because of what is described as 'a considerable divergence of views', the Committee recommended that the decision as to the form of accounts should be left to shareholders (para: 71).

The Companies Bill emanating from the Committee and containing the new provisions requiring proper books of account and mandating the presentation of a profit and loss account to shareholders was enthusiastically welcomed by the House of Lords in May 1927. Owing to pressure of time, the Bill did not receive its second reading in the House of Commons until February 1928. Introducing the Bill, the President the Board of Trade, Sir Philip Cunliffe-Lister (Conservative), praised the work of the Greene Committee, making special mention of its wise compromise in not mandating consolidated accounts, and requiring instead that the balance sheet of the holding company should contain sufficient information to enable shareholders to learn whether profits have or have not been earned in subsidiary companies.\textsuperscript{102}

Cunliffe-Lister evidently knew that the Bill was in for a rough passage in the House of Commons when he pleaded for its endorsement as a practical contribution Britain’s commercial law, but he probably did not expect the degree of hostility that it unleashed from

\textsuperscript{102} Hansard Official Report - debate on Companies Bill, 21\textsuperscript{st} February 1928, col. 1449
the Labour benches.\textsuperscript{103} The Labour party had been acutely disappointed by the Greene Committee Report. Whilst it recognised the need for, and welcomed, amending legislation, it wanted to see far more radical amendments to the corporate financial reporting legislation than those proposed. The ensuing debate over the corporate financial reporting provisions of the Bill provides an excellent vantage from which to examine the extent to which the assurance imagery of corporate financial reporting was shaping legislative discourse. The second reading debate lasted over three hours, the Bill spent twelve weeks in Committee and, when recommitted for its third reading, the debate lasted an unprecedented seven hours. More than 50 per cent of the time was devoted to matters pertaining to corporate financial reporting. I concentrate here on just two aspects of the discourse: the debate over the form and content of the profit and loss account, and the separate debate over the form and content of the balance sheet.

The Labour Party’s spokesman on trade, the Hon. Mr. A.V. Alexander, led the attack on the corporate financial reporting provisions of the Bill. Moving an amendment to the clause which simply required the presentation of a profit and loss account to shareholders, the Labour Party proposed that a format of its devising, which is set out in Figure 5.1 below, should be specified in the body of the Act:\textsuperscript{104}

\textsuperscript{103} In his introductory statement, Cunliffe-Lister comments:

I would have thought, and still hope, that this was a Bill which the House would welcome as a practical contribution to our commercial law, and that it would not invite any undue amount either of eloquence or opposition. I still hope that is so, in spite of the fact that I see there is now on the Order Paper, a very tentative Motion for rejection. [Hansard, Official Report, 21\textsuperscript{st} February, 1928, col. 1442]

\textsuperscript{104} Clause 39 (3) of the Companies Bill 1928 read as follows:

The Directors of every company shall at some date not later than eighteen months after the incorporation of the company and subsequently once at least in each calendar month lay before the company in general meeting a profit and loss account or, in the case of a company not trading for profit an income and expenditure account for the period.
The profit and loss account shall state under separate headings:

- the balance brought forward from the previous account if any;
- interest on investments other than bank deposit interest;
- profits of each subsidiary company;
- losses of each subsidiary company;
- profit on the sale of any investment;
- loss on sale of any investment;
- transfers from any reserve account;
- transfers to any reserve account;
- income tax;
- depreciation;
- amount written off any asset or assets;
- loss on the sale of any asset or assets other than stock in trade where the total amount during the period covered by the account exceeds one hundred pounds;
- profit on trading or business for the carrying on of which the company was formed;
- loss on trading or business for the carrying on of which the company was formed;
- remuneration or other emoluments of the directors of the company whether as such directors or otherwise.

**Figure 5.1: The Labour Party’s proposed format for profit and loss account disclosure proposed as an amendment to the Companies Bill 1928.**

Nothing remotely resembling this document would have been produced under the provisions of the Act. The Labour Party proposed a similar style amendment to the clause in the Bill requiring a balance sheet. The Bill proposed that the balance sheet should contain a summary of the share capital and such particulars as would disclose the general nature of the liabilities, its fixed and floating assets and how the values of the fixed assets had been arrived at. The

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106 Interestingly, Section 26(3) of the Companies Act 1908, which mandated public filing of the balance sheet, had required this same information but Section 113 of the Act, which mandated the presentation of the balance sheet to shareholders, had made no specification as to form or content. Thus we had the curious position following the 1908 Act where the balance sheet filed with the Registrar and the balance sheet given to shareholders could differ. Edwards (1981) reports some evidence that this actually occurred in his study of disclosure patterns between 1900 and 1940.
Labour Party proposed an amendment requiring that the balance sheet classify capital, assets, and liabilities, under headings as in Figure 5.2 below:

The balance sheet shall state under separate headings:

a. freehold property at cost and amount written off;
b. leasehold property at cost and amount written off;
c. plant and machinery at cost and amount written off;
d. stock in trade as valued for income tax computation;
e. investment in stock exchange securities;
f. other investments;
g. book debts;
h. bills receivable;
i. loans to directors;
j. other loans;
k. cash at bank and in hand;
l. profit and loss account balance;
m. capital authorised;
n. capital issued;
o. debentures authorised;
p. debentures paid up;
q. creditors;
r. loan creditors;
s. bank overdraft;
t. free reserves (shown separately).

Figure 5.2: The Labour Party’s proposed format for balance sheet disclosure proposed as an amendment to the Companies Bill 1928.\(^{107}\)

Advancing the case for a prescribed form of profit and loss account and balance sheet, Mr. Alexander explained:

\(^{107}\) Hansard Official Report, 26\(^{th}\) July 1928, col.1566.
I put four reasons why there should be more publicity. First, it is in the interests of the shareholder; there is not anything like enough publicity for the safeguarding of the shareholder. Secondly, there should be more publicity from the point of view of the traders who have to enter into contracts with these various companies....The exact financial position of these companies ought to be so publicly known that every legitimate trader who is going to enter into a contract with them should reasonably know what are their *bona fides*, and what are their possibilities. Thirdly, in the interests of the general public there should be more publicity .........nobody who has read the Reports of the Standing Committee on Trusts and the sub-committees of the Central Profiteering Act, can fail to understand the necessity for wider publicity in that regard. The fourth point I urge for publicity is the most important of all at the present juncture. We get a great deal of discussion nowadays about peace in industry. I suggest that with the enormous number of weekly wage-earners who are employed by corporate bodies and the large number of questions about wages and general conditions of labour that come up in connection with those bodies, that we are not going to get a reasonable basis for peace in industry unless the worker who is concerned in the negotiations can tell whether he is being played a straight game in the accounts of the people who employ him. It is impossible in the great majority of cases for those who are desiring better conditions, or even for the more expert people who negotiate on their behalf, to be able to ascertain whether the statements made as to the position of these companies is really correct.108

Although couched in terms of publicity, the proposed amendments had little to do with the principle of publicity. This was demand for assurance. At the core of the various justifications advanced by Alexander (i.e. *safeguarding the shareholder, guarding the interests of the trade creditor and the general public, and improving industrial peace*) was a belief that the corporate financial report, if appropriately designed and containing sufficient detail, could go some distance towards assuring these various interests that a company was financially sound and that its affairs were being conducted fairly and honestly. The core principles appealed to were *bona fides, honesty in administration, equity in distribution of profits, and fairness in

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108 Hansard Official Report, 21st February, 1928 col. 1456-1457
valuation of worth. Appropriately-designed financial statements were to be the mechanism for assuring each of the corporate stakeholders that the directors were being straight with them!

As the Bill progressed through its various parliamentary stages, each justification was developed more fully in contributions from both sides of the House of Commons. Understandably, the shareholders’ interests were the highest priority, but they were far from exclusive. The justification for seeking enhanced disclosures about subsidiaries, for example, was that bogus transfer pricing was being utilised to move profit between group companies in order to suppress wage claims in one part or another of groups. The Hon. Mr. Evans for the Labour Party expressed it thus:

It is no good annexing to your balance-sheet a statement of your holdings in subsidiary companies unless you let the people know what the amount of the profits and losses are in that subsidiary company....We have arrived at a time in industry, and we have to realise it, that, sooner or later, all industries in regard to their capitalistic items, must put all their cards on the table. The workers are demanding it and I think the common sense of the country is supporting them in their view that we do not know exactly the true story of any particular industry or of any particular company. Let us know exactly what the profits are; let us know exactly what the expenses are and then, and only then, shall we be able to judge whether the profits are being equitably distributed between the employers and workmen.109

A compelling justification advanced for more detailed profit information was the elimination of the practice of income smoothing, which was achieved, according to one MP in the House, by directors hiding profits away in all corners of the balance sheets.110 On the same point, the Hon. Mr. Webb believed that detailed accounts would reduce the opportunities for insider dealing that were facilitated by these secret reserves and thus provide some assurance of fair dealings as between insiders and outsiders:

There would be no leakage if information were given publicly. That is the way to stop leakage. I quite agree that in all probability leakage cannot be stopped unless that is done, and the evil of leakage is not the leakage itself, but the fact that it means that some individuals connected with the company are making an illegitimate profit at the expense of other individuals outside......I should say that it is of the nature of robbery. At any rate, it is outside the morality of every decent man.  

Wider interests were also invoked; Webb believed that the Companies Acts should have a broader purview than protection of shareholders and investors wholly or even mainly:

We are entitled as a community to know the people with whom we are dealing and what is the financial standing of any group of people of that sort. We are entitled to know the character of the people with whom we are dealing.

What is most remarkable about this debate is the degree of consensus regarding these fundamental principles: throughout the debate, one after another, Conservative Party contributors agreed with Labour Party contributors and vice versa. Yet, when it came to legislating for the form of corporate financial statements that would meet these needs, the Government was defiant. The President of the Board of Trade, citing the Greene Committee’s Report and some of the experts who had given evidence, claimed that specifying the form of the profit and loss account and balance sheet disclosures would be undesirable because of: (i) the potential competitive disadvantage; and (ii) the enormous difficulty of specifying in law the form of profit and loss account for each and every different kind of business.

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113 It will be evident to the reader that a great many rhetorical ploys were used in this debate. The amendment clearly intended that the proposed form was general enough for all companies. The Government chose to understand it as needing a different form for all companies.
Both arguments were roundly rejected by the Labour Party. Citing public statements by eminent accountants and business commentators, Labour spokesmen challenged the Government to present any evidence that publication of summary profit and loss information was harmful to competition or that their proposed formats were not general enough in style to be applicable to most companies. Quoting the Vice-President of the Incorporated Society of Accountants and Auditors, Mr Henry Morgan, Alexander told Parliament that without an indication as to what should be included in the profit and loss account and what form it has to take that the account would be absolutely useless to shareholders. Morgan had gone further to say that the suggestion that publication of detailed accounts would interfere with the elasticity of commerce was 'sheer humbug'.

The Manchester Guardian, Commercial Supplement supported the Labour Party:

Attention has again been focussed upon the questions [of balance sheets] by the discussion it has received in Standing Committee of the House of Commons. An amendment, ultimately rejected, had been proposed there by Mr. A. V. Alexander that the share capital of a company, its liabilities and assets should be stated under twenty different headings, which would clearly separate and distinguish freehold and leasehold property, debtors and loans to directors, creditors and loan creditors, investments in stock exchange securities and other investments, and could provide adequate information about debentures, overdrafts and reserves. This, of course, goes considerably farther than the bare provision of the clause in the Bill that 'such particulars should be given as are necessary to disclose the general position as regards the company’s liabilities and assets,' but if the purpose of a balance sheet really is to give a ‘true and correct’ view of the company's affairs it is difficult to cavil at Mr. Alexander’s proposals. The familiar argument that vital information might be given away to competitors was brought into play, and it was also advanced that no stereotyped headings could cover the balance sheets of all the varied types of businesses which would nevertheless have to conform to them. To what extent the arguments

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115 Hansard debate on the Companies Bill, 21st February 1928, col. 1456.
really are valid it is not easy to say, but it should hardly prove a labour of Hercules to
device a form which would allow sufficient elasticity to cover various classes of
businesses and there may be some excuse for believing that those who desire to
communicate the very minimum of information may employ the bogey of the competitor
for their own purposes.\textsuperscript{116}

Yet, when it came to the crux issue of voting on the Labour Party's proposals for enhanced
financial statements, in division after division, the proposed amendments were defeated and
the Bill was passed pretty much as it had been brought to the House. There was, of course,
more than a hint of ideological posturing as well as party political hostility evident in the
debate on the Companies Bill 1928. But, that which may appear from one perspective to be an
enormous gulf between the Government and the Opposition hides the significant level of
agreement which prevailed. The discursive arena from which the CA 1928 emerged was
radically different than that from which earlier Companies Acts had emerged. The issue of
disclosure was still there but it had receded in importance having been replaced by new
questions and a new agenda shaped by an image of corporate financial reporting as assurance.

Even though the Labour Party did not succeed in having its amendments passed, the
Companies Act 1928 did move corporate financial reporting onto a new level. For the first
time a statutory obligation was imposed on directors of all companies (public and private) to
present an annual profit and loss account to shareholders. Thus, from 1929 onwards, the profit
and loss account and the balance sheet became the primary documents of statutory
accountability between companies and their shareholders. Granted, the entitlement to a profit
and loss account was still limited to shareholders – and, by today's standards, the level of
detail was minimal in both the profit and loss account and the balance sheet. But on another
level these were matters of detail: what the debate on the Companies Bill 1928 illustrates is
that Parliament was \textit{at idem} that corporate financial reports were nothing if they could not

\textsuperscript{116} Manchester Guardian, Commercial Supplement – read into the Official Record, Hansard, 26\textsuperscript{th} July
provide a reasonable level of assurance that companies' affairs were being managed honestly and fairly.

It was only a matter of time before its blueprint for these two financial statements made it to the statute book. As we shall see in Ch. 6, the Labour Party secured the opportunity to make a lasting impression on corporate financial reporting legislation in the Companies Acts 1947 and 1967 - where many of the amendments that were rejected in 1927 finally found a place in statute. In the next section we explore the invention of the statutory auditor which was occurring in parallel with the design of the statutory financial report.
Inventing the Statutory Auditor

To many who have trained as auditors since the enactment of the Companies Act 1948, the history of statutory auditing is a story of the triumph of professionalism over amateurism. In this version of events, the shareholder auditors appointed to the early joint stock companies during the eighteenth and nineteenth centuries were ill-suited to the complex craft of audit.\(^{117}\) Thus, beginning around 1850, a body of experts grew up to satisfy the demand for auditing services and, in due course, these experts professionalised, forming the well-known accountancy institutes and associations that make up the ‘established’ profession today. Having spent close on a century building professional expertise, enhancing reputation, and implementing a credible system of training and accreditation, these professionals finally secured statutory recognition of their expertise in the Companies Act 1947 which mandated that statutory auditors be members of certain specified associations of accountants.\(^{118}\) Today, the relatively high standing accorded to the auditing profession is a testament to the value placed on this professional service.\(^{119}\)

If legislators feature at all in this account it is usually only to criticise them for not having enacted certain features of the legislation earlier than they did.

But there is an alternative history of statutory auditing, which, if it does not undermine this account entirely, at least acknowledges the significant role played by Parliament in creating the auditing regime that we have today. The statutory auditor is portrayed here as a complex parliamentary creation or invention. Moreover, such is the complexity of what we might call

\(^{117}\) Recall that the JSCA 1844 and nineteenth century convention envisaged that the auditor would be elected from among the body of shareholders.

\(^{118}\) Section 23 of the Companies Act 1947 provided that a person did not qualify for appointment as an auditor unless a member of a body of accountants recognised by the Board of Trade or who warranted such recognition through experience already gained as an auditor.

\(^{119}\) At the time of writing, the traditional high standing of professional accounting bodies around the world is suffering. The immediate causes are not too hard to find: high profile litigation against public accounting firms, the increasing commercialisation of public accounting firms and a more general...
the *ideal statutory auditor* that, arguably, the *creation* has not yet been perfected.\footnote{It so happens that at the time of writing [February, 2000] significant efforts are being made to reinvent the statutory auditor. These attempts, which owe their impetus to the rather uncertain state of the law relating to the tort of negligence (especially for economic loss), is beyond the scope of this thesis.} Pushing the invention analogy a little further, the argument advanced here is that the creation of the statutory auditor as we know him today, required a whole series of legislative enactments (experiments as it were) and, more specifically, that the efforts to perfect the design from about 1895 onwards coincided with the transformation of the image of corporate reporting away from *revelation* and towards *assurance*.

We are accustomed today to marking the year 1900 as the birth-date of the *statutory auditor*. It is back to the Companies Act 1900 that we are able to trace an unbroken line of *legislative development* in audit.\footnote{Recall that although the JSCA 1844 contained similar audit provisions to the Companies Act 1900 these provisions were repealed in the Companies Act, 1856.} But, in order to really understand the genesis of the statutory auditor we need to go back to the Life Assurance Act 1870. The Life Assurance Act 1870 was a direct consequence of a spate of rather notorious life assurance scandals in the mid-nineteenth century. Between 1844 and 1868, 219 insurance and assurance companies were formed and 170 ceased trading – many through fraud and mismanagement.\footnote{These figures were supplied to Parliament during the second reading of the Life Assurance Bill, 1870 by Mr Stephen Cave, MP. See Hansard, Official Report, 23rd February, 1870, Col. 722.} In order to bring some degree of accountability to these companies, the Life Assurance Bill had proposed, *inter alia*, that once in every five years an examination of the financial condition of life assurance companies would be conducted by an actuary.

This 'audit', as the provision was known, was warmly welcomed by Parliament – but who should conduct the examination? Harking back to similar proposals that had been made during debates on earlier Companies Acts, some parliamentarians urged that the audits...
AFFIRMATION AND CONFIRMATION

should be undertaken by the Board of Trade.\textsuperscript{123} An alternative that also found some favour was that the appointment of auditors might be subject to Board of Trade approval. However, there was strong opposition to both suggestions mainly on the grounds that it might induce persons to rely too much on the Government officer and that it was unfair to expect Government to undertake such a burdensome duty. Summing up the case against Governmental involvement in audit, the then Chancellor of the Exchequer, Robert Lowe (the same Robert Lowe that had been so influential in the consolidation of company law in 1856), stated:

\begin{quote}
I do not think that you can call upon the Government to make this audit... I do not think it is the function of Government, and I do not believe the Government would do it well. They would go to sleep over it; they would give to companies undue credit; and thus the Government would be parties to leading persons to trust many unworthy concerns.\textsuperscript{124}
\end{quote}

The Chancellor's remarks closed the book on a question that had been simmering for some time concerning the proper role, if any, that the State should play in monitoring the integrity of the corporate financial reports presented by companies. Without doubt, pragmatism played a part here; the Board of Trade was not adequately staffed to undertake audits. But, as Lowe's remarks above tend to suggest, neither did the State wish to carry the responsibility and liability to which such a function could potentially expose it. Viewed in this light, we might say that the invention of the \textit{statutory auditor}, for that is what this decision amounted to, constituted the \textit{assignment} of a significant responsibility for the accuracy of financial statements – a responsibility that in another set of circumstances might have fallen to the

\begin{footnotesize}
\textsuperscript{123} For example, Mr. W. Shaw who, in welcoming the audit provisions, stated that he was "...glad to find that there was to be a compulsory audit of all accounts of the various companies; but he must observe that, as it had hitherto been the object of the auditors of these companies to make them stand as well as possible in the eyes of the public..............he saw no reason why the duty of auditing the accounts should not be undertaken by the Board of Trade, who (sic) might also investigate the nature of the assets belonging to such companies and ascertain their value..." \textit{Hansard Official Report}, 23\textsuperscript{rd} February 1870, Col. 740-1.

\textsuperscript{124} \textit{Hansard Official Report}, 23\textsuperscript{rd} February 1870, Col. 752.
\end{footnotesize}
State.\textsuperscript{125} Furthermore, in establishing the principle that the statutory auditor should not be a Government Officer, Parliament set statutory audit on a course that could never really be other than highly politicised.

Although the Life Assurance Act 1870 marks an important stage in the invention of the statutory auditor as we know him, it was a very early one. There was at the time no developed concept of an auditor’s duties, responsibilities, or rights. Work on the development of a legislative code for statutory auditing was really begun in 1894-5 by the Departmental Committee on Company Law Amendment chaired by Lord Davey. It is not intended here to examine any of the series of enactments between 1900 and 1985 in any great detail. As I have already indicated, the role of the statutory auditor is, and always has been, a highly politicised one by virtue of the significant responsibilities and liabilities attaching to it. Moreover, the point that I wish to make is less concerned with the precise outcome of the various attempts to refine and mould the statutory auditor as with the fact that such refining was an ongoing feature of parliamentary work from 1895 onwards. By briefly identifying some of the legislative highlights I can offer an adequate sense of how the task of perfecting the statutory auditor took on a new momentum as the image of corporate financial reporting transformed from revelation to assurance during the early part of the twentieth century.

Credit for establishing the legislative blueprint for statutory auditing must go to the Davey Committee (1895). Without doubt, this Committee was encouraged in its task by the fact that the proposal to mandate audit commanded support right across the business and investment communities.\textsuperscript{126} Furthermore, given that opposition to publicly disclosing financial information was still strong at that time, it is not surprising that the Committee concentrated its effort on devising a legislative code for auditors, believing, as did Lord Davey, that audit

\textsuperscript{125} Of course, at the time the extent of this responsibility and its attendant risks could not even have been imagined - the tort of negligence for economic loss did not even exist.
provisions would go some way towards remedying the worst effects of the policy of *caveat emptor* that he believed had guided companies legislation up until then.\(^{127}\)

Parliament adopted the broad thrust of the Davey Committee’s recommendations in bringing forward the Companies Bill 1900. The Davey Committee’s proposals [the legislative blueprint is set out in the relevant sections from the draft bill copied in Appendix E to this thesis] were, however, far more sophisticated than those actually adopted. The modifications to the draft Bill essentially reflected concerns about imposing too onerous a duty on the auditor – a consequence, one imagines, of the various interests that had to be accommodated. For example, a controversial modification to the Bill concerned the report that auditors should be obliged to make. Common practice at the time was for auditors to state that the accounts presented *a true and correct view of the state of the company’s affairs as shown by the books.*\(^{128}\) The accountant Mr Frederick Whinney had advised the Davey Committee that, if the auditor’s report did not extend beyond seeing that the balance sheet was correct *according to the books*, an audit certificate would be more or less delusive.\(^{129}\) Accordingly, Davey had recommended that this phrase be excised [see the proposed new wording in Appendix E, clause 33]. Parliament, however, rejected this recommendation fearing that it would be a mistake ‘to require too much of auditors or to believe that an audit, however well conducted, could enable absolute reliance to be placed upon balance sheets’.\(^{130}\)

With annual audit mandatory from 1900 and public filing of a balance sheet compulsory for public companies after 1907, *the role of the auditor, the duties, the skills and training*...

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\(^{126}\) Jones (1995) analysed the evidence on audit taken by the Davey Committee which he found to be 100 percent in favour of audit.

\(^{127}\) Lord Davey believed that earlier companies legislation had been too influenced by what he called a policy of *caveat emptor*. See Hansard, Official Report, Lords, 19th March 1896, Col. 1316/1317/1326.

\(^{128}\) This was the wording that had been chosen in the Companies Act 1879 which, in addition to extending limited liability to all banks, also insisted on an annual audit [See 42 & 43 Vict., c.76, section 7(6)].

\(^{129}\) Evidence of Mr. Frederick Whinney to the Departmental Committee on Company Law Amendment, 1895, British Parliamentary Papers, LXXXVIII, p.81.
required, and the appropriate degree of independence all became the focus of ever closer public and parliamentary attention as the century progressed. Every single review of company law between then and now has examined and re-examined critical elements of the design. The thrust of all the enactments after 1900 have all been to bring the statutory auditor closer to some putative ideal – the person who confirms that the financial statements can be safely relied upon.

Understandably, on each occasion, compromises between auditors and the State had to be made. In 1905, the Loreburn Committee recommended that the auditor should be an accountant.\footnote{Hansard Official Report, Lords debates, Vol. 38, 1896 19th March, Col. 1322.} This proposal was welcomed by the House of Lords, but the President of the Board of Trade told the House of Commons that the proposal had been found to be unacceptable in financial circles and it was therefore withdrawn. In 1918, the Wrenbury Committee advised Parliament that it would be highly inexpedient if not impossible to remove the controversial words as shown by the books of the company from the auditor’s report, thereby enhancing the value of their opinions.\footnote{We might assume that all accountants would have supported this proposal. Remember, however, that many individuals who held the post of auditor were in practice as accountants but were not qualified members of a professional institute of accountants.} But trade-offs occurred in the other direction also. In 1925 the Company Law Amendment Committee became aware of the pernicious practice of inserting in companies’ articles of association a provision indemnifying directors, officers and auditors from liability for loss except when it was due to their wilful neglect. Parliament adopted the Committee’s proposal in the Companies Act 1928 and outlawed all such contracts or provisions by declaring them void.\footnote{Report of the Company Law Amendment Committee (1918) para: 59. British Parliamentary Papers, Vol. VII. 1918.} Finally, in 1945 the
Committee on Company Law Amendment chaired by Mr. Justice Cohen proposed a radical overhaul and strengthening of the legal framework for auditors. The Cohen Committee’s proposals were adopted in the Companies Act 1947 and it is really from this Act, consolidated in the Companies Act 1948, that our modern conception of the statutory auditor dates. The Companies Act 1947 introduced new rules on independence, it defined the duties of auditors in explicit terms, it set out a framework of their rights and, perhaps most significantly, it granted exclusive rights to certain professional associations of accountants to hold the position of statutory auditor.\(^{134}\)

Although it is true to say that auditing does not depend on the law for its existence, the statutory auditor is in important respects a distinct parliamentary creation whose origins and development must be understood on the larger canvas of Parliament’s images of corporate financial reporting. What this review has shown is that, from about 1870 onwards, the concept of the statutory auditor was taking root. Subsequently, developing alongside the late nineteenth and early twentieth century demands for more reliable corporate financial reporting, the modern conception of the statutory auditor was moulded in series of enactments beginning in 1900 and continuing through to today. However, the significant design work was performed between 1907 and 1947, coinciding with a transformation of image of corporate financial reporting to assurance.

\(^{134}\) There was a special transition arrangement granting recognition to individuals who had been working as auditors but who did not belong to any of the named professional associations.
When Parliament mandated the presentation of an audited balance sheet to shareholders in 1900 and the public filing of public companies' balance sheets in 1907, it was inevitable that corporate financial reporting would take on a new significance in the business and economic life of the nation. In this chapter we have seen that the imposition of these new requirements marked the emergence of a new image of corporate financial reporting and served to put the form, content and reliability of corporate financial reporting squarely on the legislative agenda in a way that had not been possible under earlier conceptualisations of CFR. Over time, this assurance image served to shape the corporate financial report (via legislation) into an independently-attested document designed to provide some fairly minimal level of assurance about a company's financial health.

In the next chapter, I will go on to investigate the third and final image of corporate financial reporting which this research has identified.
CHAPTER SIX

DECISIONS, DECISIONS

Corporate Financial Reporting as Advice, 1940-1985

It may well be that the reader of the Reader's Digest who likes his information in snippets, is quite incapable of mastering, and will make no attempt even to read, these long accounts. But we have the financial journalist, who is very often an economist of considerable standing and who is trained to explain these accounts to the investing public and to bring a sharp and critical mind to bear on them. From that point of view it is made quite clear in the Cohen Report that there can hardly be too much material placed before the public in that way.


If company accounts are to measure the financial position and results of a company, which in general terms must be their objective, it seems essential that they should allow for changes in costs and prices, and the implication that they do not already do so is surprising. Yet it rapidly became clear to us that the existing accounting conventions have failed to indicate the extent of the crisis and it has been suggested to us that they may even have added to the problems of companies by presenting misleading information to management, employees, shareholders and others.


I

Introduction

In Chapters 4 and 5 we saw that there was a marked difference in the style of legislation governing corporate financial reporting during the latter half of the nineteenth century
compared with the legislation enacted during the first 40 years of the twentieth century. The explicit purpose of Chapters 4 and 5 was to demonstrate that a useful way of understanding the different legislative styles was to appreciate the different imagery that had shaped parliamentary thinking about corporate financial reporting during those periods. Thus we saw that, where the revelation imagery had shaped a discourse centred on the principle of public disclosure resulting in legislation that was equivocal about disclosure to say the least, the assurance imagery had shaped a discourse centred on achieving accuracy and reliability in corporate financial reports, resulting in the creation of the statutory audit.

In the post-World War II period, corporate financial reporting legislation underwent a further transformation in style. It is in the Companies Act 1947 (CA 1947) that we find the first statutory evidence of this transformation. The CA 1947 first introduced the requirement that the financial statements of connected companies in a group structure, should be consolidated in order to portray a picture of the financial performance and position of the entire group. For the first time also, companies were obliged to file a profit and loss account with the Registrar of Companies for public inspection, and auditors were required to report on the profit and loss account as well as on the balance sheet. The Act also mandated substantially more disclosure regarding the nature and valuation of assets, and about the computation of profit or loss (e.g. itemised disclosures such as depreciation, interest, directors' emoluments, etc.).

Twenty years later, the Companies Act 1967 expanded the financial reporting obligations even further mandating, *inter alia*, the disclosure of turnover, income from investments, and more detailed analysis of directors' emoluments. Finally, in the Companies Act 1981 (CA 1981), Parliament enacted the EEC's Fourth Directive on company accounts into national law. This Act adopted new European-wide formats for the presentation of corporate financial
DECISIONS, DECISIONS

statements, and further expanded the disclosure obligations by requiring, among other things, cost of sales information to be presented in the profit and loss account. In a major departure from earlier legislative practice, the CA 1981 also incorporated certain fundamental accounting principles in a statute. The Act required companies to apply the going concern principle, the consistency principle, the accruals principle and the prudence principle in preparing statutory financial statements. To summarise, there is widespread agreement that the Companies Act 1947 ushered in an era of statutory financial reporting radically different from that which had preceded it (Turley, 1992; Arnold et al., 1994; Alexander and Britton, 1996).

These legislative details set the backdrop for our exploration of the third and final image which shaped parliamentary thinking about corporate financial reporting during the period under examination. I label this third image corporate financial reporting as advice. In my schema, the advice imagery signals the advent of a radically different legislative programme for corporate financial reporting after 1940. In this new legislative programme, the roles that Parliament envisaged for corporate financial reporting expanded and the terms in which corporate financial reporting was (and continues to be) discussed changed in marked ways from the terms in which it had been discussed under earlier images. Concerns about the principle of disclosure, the right to privacy, and the need for accurate and reliable accounts, gave way to concerns about the quality of corporate financial reporting for the decision contexts that it was now expected to support. Accordingly, legislators turned their attention to the multiple users of corporate financial reports, and to the usefulness of the reports in meeting the needs of those users. The informational quality of corporate reports became the paramount concern and concepts such as relevance, truth, fairness, analysability, uniformity, and timeliness entered legislative discourse. In short, the post-1940's discourse suggests that corporate financial reporting was being conceptualised as a powerful form of communication.

By connected companies is meant the holding company and all subsidiaries in a group.
between companies and their respective stakeholders. It is an integral part of my argument that this advice imagery strengthened during the period 1940-1985, such that it is now taken for granted that corporate financial reporting is, in significant respects, Advisory.

When this third image, advice, is placed alongside the two images identified in Chapters 4 and 5, Revelation and Assurance, a typology of changing imagery and the associated discursive themes is revealed, extending over the entire legislative period 1844-1985, as represented in Figure 6.1 below:

<table>
<thead>
<tr>
<th>Image</th>
<th>CFR as Revelation</th>
<th>CFR as Assurance</th>
<th>CFR as Advice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exposure</td>
<td>Secrecy</td>
<td>Deceit</td>
<td>Disclosure</td>
</tr>
<tr>
<td>CFR as Revelation</td>
<td>CFR as Assurance</td>
<td>CFR as Advice</td>
<td></td>
</tr>
<tr>
<td>Revelation</td>
<td>Assurance</td>
<td>Advice</td>
<td></td>
</tr>
<tr>
<td>Secrecy</td>
<td>Correct accounts</td>
<td>Shareholder control over directors</td>
<td></td>
</tr>
<tr>
<td>Deceit</td>
<td>Reliability</td>
<td>Fairness in reporting</td>
<td></td>
</tr>
<tr>
<td>Disclosure</td>
<td>Third party confirmation</td>
<td>Reporting to employees</td>
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<td>Fair dealing for stakeholders</td>
<td>Credit Assessment</td>
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</table>

*Figure 6.1: A typology of imagery shaping legislative discourse between 1844 and 1985*

This chapter explores how the advice image shaped the legislative development of corporate financial reporting after 1940. Aside from the introduction and conclusion, the chapter contains two main sections. In Section II, the corporate and economic context within which the advice image emerged, is described. Describing context is a fraught task: What should be included? What may safely be left out? What are the precise linkages between context and outcomes? It is suggested here that the critical context-framing feature of the 1940-1985 period was the massive expansion of the corporate economy because this served to bring the
concerns and interests of the entire spectrum of corporate stakeholders onto the legislative agenda at roughly the same time - circa 1940 - and in a much more intense way than before.

In Section III it is suggested that, because the potential of corporate financial reporting as a communication or information system had, by this time, become more apparent and better understood, legislators turned to corporate financial reporting in search of answers to some of the concerns being voiced by corporate stakeholders. However, corporate financial reporting as it stood following the Companies Act 1929, was far from a ready-made solution to any of these concerns. There were serious deficiencies in the financial reporting model of the 1930’s which, as we have already seen, are at least partially explained by the imagery that had shaped its earlier legislative development.

The upshot of this was a significant re-direction of legislative attention to the decision contexts in which corporate financial reporting might be used and a reassessment of the type and quality of information that would be needed to support decision-makers. However, there was an interesting side-effect to this reassessment which is also discussed here. The Legislature was not well positioned, either in terms of expertise or resources, to deal with all the stakeholders whose interests fell to be considered. The response was to divide the regulation of corporate financial reporting in two, with the Legislature assuming responsibility for the regulation of agency-type corporate financial disclosures, and the accountancy profession taking over the task of regulating the information needs of investors qua investors. Before we turn to consider the influence of the imagery in greater detail, it will pay to say a little more about the context.
DECISIONS, DECISIONS

II

The Corporate and Economic Context from 1940 to 1985.

We saw in Chapter 5 that in Britain, the transformation from personal capitalism to managerial capitalism came slowly and grudgingly (Chandler, 1984: 496). Reading Chandler, one could be forgiven for believing that, up until 1945, Britain was a country of small private companies capitalised at £100.136 In fact, the reality was very different. Chandler's historical interest in Britain, much like Michael Porter's and David Landes', has focussed primarily on Britain's national competitiveness, especially on the relative decline in Britain's international position from its eighteenth and nineteenth century pre-eminence (Porter, 1990; Landes 1998). These macro-level assessments utilising, as they do, aggregate economic statistics, can obscure the underlying business and corporate landscape, especially the degree of variation within it.

For, when one gets down to the level of Britain's corporate economy, one finds that from very early in the twentieth century there was a highly-developed business setting, a significant number of large, highly capitalised publicly-quoted companies, an active securities market, and a sophisticated network of legal and institutional support (Hannah, 1976). The sheer number of companies in operation by the early 1940s is impressive, as Table 6.1 reveals:

136 I am being a little unfair to Chandler here. As one of the leading economic and business historians of the twentieth century, he perhaps should not be criticised for the level at which he has chosen to analyse the comparative performance of nations. Nonetheless, the more general point is an important one: comparative economic history is often not the best place to learn about the underlying corporate reality of a nation.
### Table 6.1: The numbers and capital of private and public companies 1930 – 1944

<table>
<thead>
<tr>
<th>Year</th>
<th>Public companies</th>
<th>Private companies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Paid-up capital £million</td>
</tr>
<tr>
<td>1930</td>
<td>16,263</td>
<td>3,984</td>
</tr>
<tr>
<td>1934</td>
<td>14,852</td>
<td>3,851</td>
</tr>
<tr>
<td>1939</td>
<td>13,920</td>
<td>4,117</td>
</tr>
<tr>
<td>1944</td>
<td>13,303</td>
<td>4,052</td>
</tr>
</tbody>
</table>

*Source: Presented by the Registrar of Companies to the Company Law Amendment Committee, 1945.*

The image of a *shop-keeping* economy quickly recedes in the face of this evidence and the evidence of Britain’s successful publicly-quoted giants such as Imperial Chemical Industries, Unilever, Beechams, Courtaulds, Distillers, Dunlop, Hawker Siddeley, J & P Coats, Imperial Tobacco, AEI, and Cadbury-Fry, to name only a handful.

The London Stock Exchange played a key role in this development, and in creating a dispersed public share-ownership. Interestingly, the transformation of the London Stock Exchange from an institution engaged primarily in raising fixed interest funding from banks and wealthy individuals to one that raised equity from a much more dispersed public did not occur entirely by design. During World War I, the British Government had banned all foreign financing issues, pushing customers firmly towards New York’s Wall Street, hence dramatically reducing demand for services in London. By 1918, London had irretrievably lost its position as the world’s premier centre for finance to New York (Cain and Hopkins, 1993: 14-20). One consequence of this loss of position was a reorientation of London’s capital market away from overseas issues and towards domestic industry (Aitken, 1970; Collins, 1991; Cain and Hopkins, 1993).
In conjunction with this supply side influence, demand for equity capital also grew significantly following WWI. Part of the reason for the increased demand, according to Hannah and Kay (1977), was the degree of industrial consolidation that was occurring - some 3,700 mergers were completed between 1918 and 1945. A second source of demand was the initial public flotation of many medium-sized family companies, intended either to facilitate expansion or to facilitate families exiting from the businesses. This growth in the demand for capital meant that by the mid-1930's, 50% of new issue funding went to home industries compared with only 34% in 1913 (Thomas, 1978: 34).

After 1945 there was an even more marked shift towards domestic financing. As Table 6.2 below indicates, in 1968 domestic industrial securities quoted on the London Stock Exchange had a nominal value of £11,343 million, representing 25% of the total value of quoted securities compared with £2,184 million (9.5%) in 1946 and £873 million (7.7%) in 1913.

Table 6.2: Nominal value of securities quoted on the London Stock Exchange, 1913-1968

<table>
<thead>
<tr>
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<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Breweries and distilleries</td>
<td>103.8</td>
<td>120.8</td>
<td>188.0</td>
<td>243.0</td>
<td>320.1</td>
<td>1,102.9</td>
</tr>
<tr>
<td>Commercial, Industrial, etc.</td>
<td>438.6</td>
<td>669.2</td>
<td>1,215.7</td>
<td>1,629.5</td>
<td>2,495.6</td>
<td>9,846.6</td>
</tr>
<tr>
<td>Iron, Coal, Steel and Copper</td>
<td>329.8</td>
<td>413.1</td>
<td>370.0</td>
<td>312.3</td>
<td>201.0</td>
<td>394.3</td>
</tr>
<tr>
<td>Sub total: domestic</td>
<td>872.2</td>
<td>1,203.1</td>
<td>1,773.7</td>
<td>2,184.8</td>
<td>3,016.7</td>
<td>11,343.8</td>
</tr>
<tr>
<td>Total nominal value of entire exchange</td>
<td>11,262.5</td>
<td>16,576.1</td>
<td>18,476.2</td>
<td>23,021.2</td>
<td>25,624.0</td>
<td>45,139.9</td>
</tr>
<tr>
<td>Domestic % of total</td>
<td>7.7%</td>
<td>7.3%</td>
<td>9.6%</td>
<td>9.5%</td>
<td>11.8%</td>
<td>25.1%</td>
</tr>
</tbody>
</table>

Source: Extracted from data presented in Morgan and Thomas (1969), Appendix: Table V. [Original sources: Burdett's Official Intelligence, Stock Exchange Official Intelligence, and Stock Exchange Official Year Book]
A corollary of the expansion of the corporate economy and the increase in equity funding of domestic business was an appreciable rise in the number of shareholders in the economy, and the inevitable separation of ownership from control. Reader referred to it as the rise of a cult of equity – such that, by 1963, 58.7% of all quoted equities were owned by individuals (1979: 160-182). However, the percentage was never to rise above this level. After 1963, the percentage of equity ownership in private individual hands declined steadily as financial intermediaries such as banks, pension funds, insurance companies, and investment trusts took over as the primary conduits for investing personal savings. Table 6.3 below reveals that, in 1963, institutions owned 27.8% of quoted equities compared with 59% for individuals whereas, by 1989, the figures had reversed with institutions holding 63% and individuals holding a mere 18% (Foley 1991: 75).

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Pension funds</td>
<td>7.0</td>
<td>20.4</td>
<td>26.7</td>
<td>29.0</td>
</tr>
<tr>
<td>Insurance companies</td>
<td>10.6</td>
<td>17.2</td>
<td>20.5</td>
<td>25.0</td>
</tr>
<tr>
<td>Investment and unit trusts</td>
<td>10.2</td>
<td>13.5</td>
<td>10.7</td>
<td>9.0</td>
</tr>
<tr>
<td>Total institutional</td>
<td>27.8</td>
<td>51.1</td>
<td>57.9</td>
<td>63.0</td>
</tr>
<tr>
<td>Persons</td>
<td>58.7</td>
<td>33.2</td>
<td>28.2</td>
<td>18.0</td>
</tr>
<tr>
<td>Industrial and commercial companies</td>
<td>4.8</td>
<td>4.1</td>
<td>5.1</td>
<td>4.0</td>
</tr>
<tr>
<td>Overseas holders</td>
<td>4.4</td>
<td>5.0</td>
<td>3.6</td>
<td>8.0</td>
</tr>
<tr>
<td>Other</td>
<td>4.3</td>
<td>6.6</td>
<td>5.2</td>
<td>7.0</td>
</tr>
<tr>
<td>Total %</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Total value £ billion</td>
<td>27.0</td>
<td>63.0</td>
<td>92.0</td>
<td>460.0</td>
</tr>
</tbody>
</table>

Source: Foley, (1991: 175)
A further consequence of the expansion of the corporate economy was that the numbers of enterprises and individuals trading with companies grew, as did the numbers of those working for companies. It was perhaps only to be expected that the expansion of the corporate economy would bring the interests and concerns of these various corporate stakeholders into much sharper relief than had been the case up until then. We know, for example, that the massive expansion in the number of private companies (95,598 in 1930 to 169,205 in 1944 per Table 6.1), all of which were exempted from filing their accounts by the Companies Act 1908, caused a good deal of agitation from representative bodies such as trade protection associations and trades unions. There was a degree of public concern also because it was believed by many that private companies were a common vehicle for tax fraud. On the public company front, the failure of the Companies Act 1928 to adequately deal with the information needs of shareholders was made even more visible by the expansion of shareholder numbers in the 1930s. Similarly, the growth of the capital market also brought the interests and information needs of an expanding investor class into sharper focus. Later in the century, institutional shareholders exerted even greater pressure for high quality corporate financial data. To summarise then, the massive expansion of the corporate economy brought a sharper visibility to a variety of corporate stakeholders and it was from this milieu that the image of corporate financial reporting as advice emerged and was then sustained. In the next section, we proceed to examine how this advice imagery played out in legislative discourse and ultimately in legislation.

137 We got an insight into the trades unions’ agitation in our examination of the legislative history of the Companies Act 1928. The trade protection associations had been vigorous proponents of audit and disclosure dating as far back as the Review of Company Law conducted by Lord Davey in 1895. The Report of the CLAC 1945 also noted the continuing demands of both groups – see the Report of the Company Law Amendment Committee 1945, para. 50.

138 The Lord Chancellor, Lord Gardiner who introduced the Companies Bill 1967 for its second reading said that “the exempt private company had really been the backbone of all the most successful tax frauds and tax evasions.” [Hansard, Official Report HoL, 22 November, 1966, col. 130.]
Making Corporate Financial Reporting Decision—Useful

The key argument of this chapter is that the imagery shaping Parliament's thinking about corporate financial reporting changed in and around the late 1930s to early 1940s from assurance to advice. It is integral to this argument that the consequences of this change in imagery are to be seen in a reorientation of parliamentary discourse towards the users of corporate financial reports and their decision contexts. It was mentioned earlier in this chapter (p.155) that two developments occurred at about this time which provide a clear indication as to how this new imagery was influencing legislators. The first was the decision to redirect attention to the problem of agency — especially corporate governance, and to reassess the potential of corporate financial reporting to provide a solution. The second was the emergence of the accountancy profession as a private sector regulator of corporate financial reporting.

Before we turn to examine these developments in greater detail, I should say something about one obvious challenge to the line of argument I am advancing here. It could be argued that marking the advent of a focus on decision contexts and decision-usefulness as the defining feature distinguishing pre-1940 from post-1940 legislative discourse is not sufficiently discriminating. Accordingly, it might be claimed that the notion of decision-making is, and has always been, central to the corporate financial reporting enterprise, and that this was as true in the nineteenth century as it is today. As evidence for this, a critic might point to the fact that Gladstone clearly intended that the corporate financial reporting provisions of the Joint Stock Companies Act 1844 would facilitate effective corporate governance, or to the fact that the accounts filing requirement enacted in the Companies Act 1907 was obviously intended to assist trade creditors. This would be a substantial challenge if it was to succeed, but I am not convinced that it does.
At a general level, I would have to concede that it could be said of any or all information that it constitutes an input into some decision model. At the same time, it would have to be conceded in return that this is not what we have in mind when we speak of a decision orientation or of information being decision-useful. We typically reserve the use of these terms to instances where we wish to suggest an active concern with a decision context — usually evidenced by some serious attempt to design information that will satisfy the needs of that decision maker in that context. Thus, while it is certainly true to say that Parliament understood the problem of information asymmetry between directors and shareholders in 1844, and sought to reduce the asymmetry by mandating periodic disclosure of accounts, it is not true to say that the quality of the information in terms of relevance, timeliness, uniformity or anything else for that matter, was given any consideration. It is precisely this concern with usefulness and quality of corporate financial reporting data which, I am suggesting, distinguishes pre-1940 and post-1940 parliamentary discourse about corporate financial reporting, and which is evident in the developments discussed below.

Taking Agency Seriously

It was recognised long before the enactment of the first general Joint Stock Companies Act in 1844, that the corporate form presented problems of agency. The London Magazine declared in 1758 that companies were a mischief:

...they give great and sudden estates to the managers and directors, upon the ruin of trade in general, and for the most part, if not always, bring ruin upon thousands of families who are embarked in the society itself. Those who are in the direction and secret of the management, besides all other advantages draw out and divide all their principal, and what they can borrow on their credit; persuade innocent and unwary people that they divide only the profits of their trade....The benefits arising by these companies generally, and almost always fall to the share of the stock-jobbers, brokers
and those who cabal with them; or else they are the rewards of clerks, thimblemen and men of nothing (XXVII, 1758, 407-408)

Between 1844 and 1928, legislators made considerable progress in preventing, controlling, and penalising abuses by company promoters and directors, and in regulating corporate and managerial behaviour more generally. The solutions included such measures as special registration procedures, comprehensive annual returns, mandatory company meetings, statutorily protected voting rights, minority protection legislation, facilities for government inspection, and the periodic presentation of financial information. Nineteenth century responses to the problem of agency are particularly interesting because they suggest a particular construction of the agency problem - a fear of promoter fraud, especially the fear that promoters might abscond with funds. Robb's (1992) study of promoter and related crime in the nineteenth century confirms that this was a very appropriate construction. By the twentieth century, however, this fear had subsided somewhat due in no small measure to the legislation that had been put in place to control promoters. Certainly by the late 1920's the problem of agency was being conceptualised less as a problem of fraud or daylight robbery, and more a problem of inefficiency resulting from poor corporate governance.

The Liberal Industrial Enquiry reported in 1928 that companies had been trying to solve the problem of how to establish an efficient system of production in which the management and ownership were separate, with mixed results.

.......the vast majority of appointments to Boards of Directors are made in effect.....by co-option by the existing directors. Since the duties are indefinite and the privileges agreeable, the way is open to various kinds of jobbery.....A directorship .....is apt to be awarded to influential people who.......are without technical qualifications for the management of the business...We do not think that the Boards, as at present

139 This reference to the London Magazine was sourced from Hunt, B.C. (1936), The Development of the Business Corporation in England 1800-1867, Cambridge, Mass.: Harvard University Press.
140 Liberal Industrial Enquiry, Britain's Industrial Future (1928: 100)
constituted, of public companies of diffused ownership are one of the strong points of private enterprise. There is here an important actual and potential element for inefficiency.\textsuperscript{141}

At the core of this conception of the agency problem was the idea that companies could be made more efficient if more effective control was exercised by the body of shareholders. A number of things came in the way of introducing measures to achieve this through legislation during the 1930's. Part of the problem was the reluctance of Parliament or the Board of Trade to review the Companies Act 1929 which had been in operation for only a short time.\textsuperscript{142} Later, World War II got in the way. However, by the time of the appointment of the Company Law Amendment Committee under the chairmanship of Mr Lionel Cohen in 1943, the agency problem, and more especially the problem of corporate governance, was driving the company law reform agenda.

The opening paragraphs of the Committee's report sets the context: we are told that \textit{public attention had been drawn to the illusory nature of the control theoretically exercised by shareholders over directors} and that the Committee had sought \textit{to find means of making it easier for shareholders to exercise more effective general control over the management of their companies} (CLAC, 1943: paras. 5 and 7e).

\textsuperscript{141} Extract from the Liberal Industrial Enquiry: Britain's Industrial Future, 1928:90-91.
\textsuperscript{142} In 1930 – less than four months after the CA 1929 came into operation, the Conservative MP, Mr. A.M Samuel, sought to have legislation introduced to require consolidated financial statements. The Secretary to the Board of Trade refused on the grounds that more experience of the working of the Act was needed before a review would be undertaken. Hansard, Official Report, HoC, 17 March 1930, col. 1710. Bircher cites a revealing memorandum written in 1936 by the Under Secretary at the BOT, one Mr. Hodgson: The demand for company law amendment is put forward principally upon the ground that greater publicity in the financial affairs of companies will assist and protect investors, enable shareholders to exercise more effective control and deter reckless conduct on the part of company promoters and directors. In brief the demand is not a cure for the present evils but for safeguards against possible and rather vaguely apprehended dangers. Where no immediate a serious defect is demonstrable a review of such a comprehensive subject as company law becomes largely a matter of imposing on all companies requirements based on the practice of the best companies – which is generally in advance of legal requirements. In the absence of reasons of urgency, a period of seven years since the Act of 1929 seems too short to have created a
The Committee was careful not to overstate the problems of directorial abuse or inefficiency but its references are sufficient to indicate that it viewed the problem very seriously. Among the specific issues raised in the Report were: (i) the fact that some directors had been found to absorb an undue proportion of the profits as remuneration, leaving little or nothing for dividends (para. 59); (ii) the oppression of minorities (para 60); (iii) insider share transactions by directors or their nominees (para. 86); (iv) the failure to give shareholders the information they needed (para 97); (v) the fact that, in some cases, auditors were deterred from pressing their views on directors for fear of losing their appointment (para. 97); and (vi) abuses of directorial power to secure the hurried passage of controversial measures (para 24).

The entire report of the Cohen Committee may be read as an attempt, as the Committee expressed it: ‘to find means of making it easier for shareholders to exercise more effective control over the management of their companies’ (para. 5). It was a very active notion of governance involving shareholders and directors in decision-making or, as Lord Jowitt expressed it during the debate on the Companies Bill, building a financial democracy.143

Most of the significant recommendations proposed by the Cohen Committee touch in some way on re-balancing the power relationship between shareholders and directors including, for example, a proposal to ensure the rights of shareholders to address meetings, a proposal that directors’ dealings with the company be disclosed, and a that aggregate directors’ remuneration be disclosed.144

The Cohen Committee clearly saw that corporate financial reporting could and should play a significant part in preparing shareholders for the much more active and effective governance position in which such a review can be undertaken to the best advantage and I agree with Mr Marker that the comprehensive review should wait some time further yet. (Bircher, 1988: 115)

144 Disclosure of remuneration paid to directors (excepting the managing director) had been mandated under the Companies Act 1928 - consolidated in the CA 1929. However, the Cohen Committee learned
role that it envisaged them taking. Thus, in addition to the host of recommendations concerned
with the meetings, prospectuses, proxy voting and much more, it recommended radical
enhancements to the corporate financial reporting structure and to the reports themselves –
almost all of which found their way into the CA 1947. These included the following:

- The requirement for connected companies (groups) to consolidate their financial
  statements into one set of group financial statements
- The tightening-up of the independence requirements for auditors
- The requirement that auditors of all except exempt companies hold appropriate
  accountancy qualification (set out in the Act)
- The requirement that the audit opinion be extended to cover the profit and loss accounts in
  addition to the already mandated balance sheet.
- Enhanced disclosures such as: directors’ remuneration, the source of increases and
decreases in reserves, depreciation charges, interest on debentures and fixed loans, income
form investments, dividends paid and proposed [see First Schedule, CA 1947 for the
entire listing]
- The introduction of a requirement that the profit and loss account be lodged with the
  Registrar for public inspection.

The imposition of the requirement that companies present consolidated financial statements is
often seen as the most significant reform in CA 1947, but in fact all the new corporate
financial reporting provisions introduced in the Act were geared towards making the
shareholder a more effective governor. Unlike the Companies Act 1928, the corporate
financial reporting provisions of which turned the second reading debate into something of a
battleground, the Companies Bill 1947 was welcomed in both Houses of Parliament and on

that some companies had made all their directors ‘managing directors’ in order to avoid this legislation. This exemption was therefore abolished in the CA 1947.
both sides of the Houses. There were minor quibbles concerning the imposition of an accounts filing requirement on private companies, and about whether some other provisions went far enough but, by and large, the desire to create the financial democracy which was being promoted by the Labour Government of the day found favour with the Conservative Opposition.

Lord Jowitt, who introduced the Companies Bill for its Second Reading in the House of Lords, captured the mood of Parliament:

In order to secure what I may call financial democracy, which we want today, we desire to make it easier for shareholders to influence and control their managements, and the Bill, in accordance with the Committee's recommendations, provides for increasing the length of notice of meetings, for allowing members to circulate notices and submit resolutions, for extending the right to demand a poll, and for facilitating voting by proxy. But under modern conditions, I think the best safeguard is to ensure the fullest possible information is given to shareholders, through the statements of accounts, and even although the individual shareholder may not always realise what is involved in these accounts, it should be revealed to the skillful reader. I do feel that if adequate information is forthcoming, informed opinion will be brought to bear upon the management.\textsuperscript{145}

The President of the Board of Trade, Sir Stafford Cripps, agreed. Introducing the Companies Bill 1947 for its second reading in the House of Commons, he appealed to the idea that shareholders should reassert their ownership rights. He stated that the main reason why the law needed amendment was because the relationship between management and ownership of limited liability companies had tended progressively to be more and more shadowy.\textsuperscript{146} He went on to tell the Commons that a principal object of the Bill was to strengthen the

\textsuperscript{145} Second reading of the Companies Bill 1947, Hansard, Official Report HoL, debates, 17\textsuperscript{th} December, 1946, col. 1000.
\textsuperscript{146} Sir Stafford Cripps; Second Reading, Companies Bill 1947, Hansard, Official Report, HoC, 6\textsuperscript{th} June 1947, col. 586.
relationship between ownership and management so as to enable shareholders to play a more real part as owners. The enhanced financial report would enable, he said:

a better control to be exerted over limited liability companies by their shareholders; and though it cannot of itself prevent failures, it can, and does, provide means whereby shareholders can exercise constant and intelligent control, which should go a long way to forestall failures arising from rash and unwise acts of directors.\(^{147}\)

Speakers on both sides of the House of Commons linked their welcome of the Bill's provisions with what they saw as its capacity to improve the resources at the hands of shareholders. Mr Brendan Bracken, welcoming the Companies Bill for His Majesty's Opposition, observed that:

Lethargy in company management, and especially in the exploitation of new ideas or processes, is often more harmful to shareholders than the doings of shady directors. So long as shareholders take little interest in the companies they own, they are disabled from criticising managerial methods, and particularly the lack of new ideas in manufacturing or selling....As legislation cannot shake shareholders out of their apathy, Parliament at least can see to it that the maximum publicity is given to company affairs, according to the Cohen Report. Taking it all in all, publicity is democracy's best watchdog and the greatest merit of this Bill is that it will ensure in future that the limited liability system will be operated in the light of most of the facts shareholders need to know.\(^{148}\)

The democratic theme was again in evidence during the deliberations of the Company Law Committee, chaired by Lord Jenkins, which reported in 1962. This Committee did not propose any radical alteration to the structure of corporate financial reporting as designed in 1947, but it greatly enhanced the level of financial disclosures required and it insisted on public filing of


\(^{148}\) Mr Brendan Bracken; Second Reading, Companies Bill 1947, Hansard, Official Report, HoC, 6\(^{th}\) June 1947, col. 600.
a balance sheet and profit and loss account for all companies.\textsuperscript{149} Introducing the Companies Bill 1967 for its second reading, the president of the Board of Trade, Mr Douglas Jay, told the Commons that he regarded the far reaching proposals for disclosure as ensuring greater democratic control of companies:

I also regard the far-reaching proposals for greater disclosure as a further contribution to the Government's general drive, through this and many other methods, to enhance industrial efficiency and productivity and ensure greater democratic control. It is right both from the point of view of efficiency and of fair distribution of rewards that full information should be available to shareholders, employees, creditors, potential investors, financial writers and the public as a whole. Publicity in all these things is one great safeguard against abuse, and unquestionably other countries, notably the United States, have been ahead of us in this respect, and the United States appears to have done well out of it.

Table 6.4, below, identifies the major legislative initiatives taken in the CA 1947 and the CA 1967 and links these with the decisions and the decision contexts that were explicitly identified during the Parliamentary debates. With the exception of economic planning, all indicate a concern with the problem of agency.

\textsuperscript{149} The Companies Act 1947 had removed the filing exemption for many private companies, but it had retained an exempt company status (mainly for small family companies). The Companies Act 1967 removed the exemption for these companies also.
Table 6.4: Some of the main decision contexts that became the focus of legislative discourse between 1940 and 1985

<table>
<thead>
<tr>
<th>Decision context</th>
<th>Decisions</th>
<th>Examples of legislation enacted as a direct result of the legislative discourse</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporate governance</td>
<td>The control of directors</td>
<td>The requirement to present consolidated accounts [CA 1947].</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The obligation placed upon auditors to report on whether the profit and loss account represented a true and fair view of the profit of the company.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The requirement for movements on reserve accounts to be disclosed [CA 1947].</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The requirement to disclose directors' remuneration annually – [CA 1948, CA 1967].</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The requirement to disclose turnover [CA 1967].</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The requirement to disclose cost of goods sold [CA 1981].</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The requirement to disclose details of directors' shareholdings [CA 1967].</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The requirement to disclose directors' interests in contracts.</td>
</tr>
<tr>
<td>Credit rating</td>
<td>The extension and management of trade credit and loans</td>
<td>The withdrawal of the filing exemption for private companies in two stages – [CA 1948 and CA 1967].</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The requirement to disclose interest payable and maturity details of loans.</td>
</tr>
<tr>
<td>Employee welfare</td>
<td>Wage claims and monitoring employee security</td>
<td>The withdrawal of the filing exemption for private companies in two stages – [CA 1948 and CA 1967].</td>
</tr>
<tr>
<td>Economic planning</td>
<td>The rational allocation of resources by the State</td>
<td>The requirement to disclose details of export sales [CA 1967].</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The requirement to disclose manpower details along with the gross wages and salaries bill [CA 1967].</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The withdrawal of the filing exemption for exempt companies.</td>
</tr>
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</table>

One interesting and unexpected feature of the post-1940 legislative discourse (also evident from Table 6.4) is the absence of any attention to the information needs of investors in the capital market. Except for some minor passing references to share values and potential
investors, there is no evidence to suggest that Parliament was remotely concerned with the needs of this group. The reason for this omission lies, I believe, in the *de facto* decision to delegate the responsibility for investor-type information to the accountancy profession, and it is to this development that we now turn.

*The Delegation of Elements of Corporate Financial Reporting Regulation to the Private Sector*

As I have suggested, it is more than a little curious that the most readily identifiable users of financial statements, investors (qua investors as distinct from shareholders), should feature so little in legislative discourse after 1940 when, as I have suggested, corporate financial reporting became increasingly seen as *advisory*. I believe that the historical record suggests a possible answer to this curiosity, which is entirely consistent with the *advice* imagery of corporate financial reporting. This is that Parliament delegated the responsibility for regulating the more immediate information requirements of investors to the accountancy profession. I believe that it chose to do this for the very good reason that it recognised, as early as the mid-1930s, that the demands which investors would make of companies for financial information could not be effectively delivered via company legislation, which on average was comprehensively reviewed only once every 20 years. Given what we now know about securities markets, Parliament’s decision, if such it was, has proven to be very prescient.

Contemporary accounts of corporate financial reporting regulation usually mark the entry of private sector regulation in corporate financial reporting with the establishment of the Accounting Standards Steering Committee (ASSC) in 1970.\(^{150}\) But if we are to really

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150 There are sound reasons for this. The establishment of the ASSC was probably the most significant step taken during the twentieth century in terms of private sector regulation and, in a sense, everything that we have today flowed from that first step.
appreciate the origins of private sector regulation we should go back to the early 1930's, to the infamous Royal Mail case. The case was taken by the Crown against the Chairman and Auditor of the Royal Mail Steam Packet Co. on charges alleging that the company had engaged in the notorious practice of clawing-back secret reserves in order to portray buoyant profit during a period of trading difficulty. Although both were acquitted, the evidence revealed serious deficiencies in the company's financial statements and cast the accountancy and auditing profession in a poor light.

The Royal Mail case, coming as it did shortly after the failure of the Labour Party to gain parliamentary support for its financial reporting proposals in the CA 1928 (consolidated in 1929), put corporate financial reporting back on the parliamentary agenda long before a review would have been expected in the normal course of events. However, despite the significance of the case, it did not prompt any immediate legislative or regulatory response. As we saw earlier, neither the Government, nor the Board of Trade, had the appetite for a major review of the Companies Act 1929 which had been in operation for less than two years. Legislators might be excused their hesitance, however, because the accountancy profession itself was not at idem on the need for change either. While the President of the Society of Incorporated Accountants, Mr Henry Morgan, was publicly promoting immediate revision of the financial reporting provisions of the CA 1929, his counterpart at the Institute of Chartered Accountants in England and Wales (ICAEW) was arguing for the status quo.

But Edwards is surely right to suggest that, at this time, the profession was coming to be seen as a source of authoritative expertise on matters of corporate financial reporting (Edwards, 151 Rex v Lord Kylsant and Another [1932] K.B. 442; The Accountant L.R. Vol.75: 55
152 Bircher found memoranda on the BOT files referring to the differences of opinion along with highlighted press cuttings of public speeches by Morgan and by Lord Plender (President, ICAEW 1910-12 and 1929-30). In one such highlighted speech made to the Insurance Institute on 13 February 1932 Plender stated:
DECISIONS, DECISIONS

1979). In 1934, the Society of Incorporated Accountants established the Incorporated Accountants Research Committee in order, it said, to put the profession on a more scientific footing (Stacey, 1954:220). And, in 1937, in the course of rejecting another of the many calls made around that time for revisions to the corporate financial reporting provisions of the CA 1929, Captain Euan Wallace for the Government stated:

. . . the people most competent to deal with this extraordinarily technical subject are not at the present moment all agreed either as to the urgency of the amendment of the Act or of the form that amendment should take. 153

Without wishing to overdraw the significance of this public endorsement of the accountancy profession, it is hardly coincidental that, five years' later, the ICAEW took its first regulatory steps by establishing the Taxation and Financial Relations Committee (TRFC) to promulgate recommendations on best practice in accounting. The ICAEW's regulatory aspirations were modest to begin with. Announcing the establishment of the Committee, it emphasised the advisory nature of the brief:

It is of course, a matter for each individual member to consider his responsibility in regard to accounts presented by directors, but it is hoped that the recommendations to be made will be helpful to members in advising directors as to what is regarded as best practice. 154

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153 The Labour Party member for Bassetlaw, Mr Bellenger, had introduced the following motion for debate on 15 December 1937:
That this House, being of the opinion that further provision should be made to protect the public from widespread evils resulting from fraudulent and unscrupulous business and financial operations, calls for the early introduction of legislation to strengthen the law, to amend the Companies Acts, and to establish a national investments board. [Hansard, HoC Official Report, 15 December 1937, col. 1175]. The Government's response to the debate was delivered by Captain Euan Wallace, Parliamentary Secretary to the Board of Trade: see [Hansard, HoC Official Report, 15 December 1937, col. 1218-19].

154 The Accountant, December, 12, 1942: 354.
Within a short period, the authority of this TFRC was being recognised. The Committee on Company Law Amendment set up in 1943, under the chairmanship of Mr Justice Cohen, reported that the recent tendency to give more information in company accounts had been fortified by the valuable recommendations published from time to time by the responsible accountancy bodies (para: 97). Introducing the Companies Act 1947, the President of the Board of Trade, Sir Stafford Cripps, also praised the expanded regulatory role that the profession was now playing:

There are elaborate requirements both as to accounts and group accounts, which are contained in the first schedule to the Bill, which again are based on the Committee’s report, and which have been worked out in detail with leading accountants in the company field. The requirements are in accord with the accountancy standards of the best companies, and, therefore, are not unduly elaborate or onerous; in fact they are what are used today.¹⁵⁵

The idea that a world of corporate financial reporting separate from statutory financial reporting would develop dates to around this time, and it was after 1945 that corporate financial reporting practices advanced ahead of statutory financial reporting. Although I would not want to suggest that the ICAEW saw itself as holding a regulatory brief for ensuring that this would happen, or as holding a brief for the investment community, the regulatory activities of its Taxation and Financial Relations Committee were clearly directed at developing more comprehensible and understandable financial statements. Between December 1942 and November 1969, the Council of the ICAEW issued 29 Recommendations dealing with many of the issues that would enhance the value of corporate financial reports to investors.¹⁵⁶

¹⁵⁶ Its recommendations covered matters such as stock valuation, depreciation and other troublesome aspects of accounting measurement.
This effective separation between the world of corporate financial reporting and a world of statutory financial reporting was reinforced by the Company Law Committee (1962). The Report roundly rejected the view that a company's balance sheet should show the worth of the business. Citing the ICAEW statement of Accounting Principles at length, the Report stated that:

The primary purpose of the annual accounts of a business is to present information to the proprietors, showing how their funds have been utilised and the profits derived from such use. It has long been accepted in accounting practice that a balance sheet prepared for this purpose is an historical record and not a statement of net worth......Similarly a profit and loss account is an historical record.\textsuperscript{157}

In the late 1960s a series of corporate scandals revealed that there were still many serious deficiencies in corporate financial reporting practice (Stamp and Marley, 1970). This time the accountancy profession responded by establishing the Accounting Standards Steering Committee (ASSC) in 1969. Initially an ICAEW initiative, the ASSC quickly became a profession-wide body, intent on improving the quality of corporate financial reporting by means of a process of standardisation of accounting measurement and disclosure practices. Still outside of the statutory legislative framework, the ASSC depended on the authority of the professional bodies to secure compliance with the accounting standards promulgated. By and large the private regulation of corporate financial reporting has been shown to work.\textsuperscript{158} In the 30 year period since the establishment of the ASSC, the regulator has gone through a number of reincarnations to its present form as a more broadly-based, independent body, the Accounting Standards Board.


\textsuperscript{158} Not everyone agrees that the private regulation of financial reporting has been a success and the system is certainly not perfect. All that I wish to convey in this claim is that it has been judged to work well enough for the system of regulation to have remained firmly located in the private sector.
There have been some hiccups in the relationship between the Legislature as a public sector regulator, and the accountancy profession as the private sector regulator. For example, the profession's failure to devise a system of inflation accounting prompted Parliament to establish its own enquiry – the Sandilands Committee, which reported in 1972. But, on balance, Parliament has been a supporter of the shared regulatory model. Even when, wrongly, it was feared that the implementation of the European Union's Fourth Directive on Company Law in Britain might undermine private regulatory activity, the Government was quick to reaffirm its support. Introducing the Companies Bill, 1981, to the House of Lords, Lord Trefgarne explained that, while the Act involved a shift from non-statutory to statutory regulation, the future development of accounting standards would remain with the profession:

...in the Government's view the major and vital role in the developing of good accounting standards and practice will remain with the profession itself. In recent years admirable and effective self-regulatory arrangements......The Government have sought in the Bill to ensure that so far as possible the legislation will not be an inhibiting factor in the continued evolution of accounting standards and practice, or detract from the authority of the profession in these matters.

It would be difficult to overstate the significance of the emergence of the dual regulatory system comprising private and statutory regulation for the development of corporate financial reporting. Private sector regulation has allowed innovation in corporate financial reporting practice to occur at a much faster pace than would have been possible relying on the legislative process alone. It has facilitated the dissemination of best practice, developed locally and abroad, as well as the early adoption of such practices. In the early stages, it provided legislators with what amounted to an experimental site (although they did not have to conduct the experiments) where new practices could be tested prior to their adoption in law. It also meant that, as time progressed, corporate financial reporting practice would begin to lead

159 Report of the Inflation Accounting Committee (HMSO, 1975),
legislative development rather than the other way around. But, perhaps even more significantly in the context of the argument being advanced here, is that the encouragement given to the accountancy profession signalled Parliament's acceptance that corporate financial reporting was *advisory* and hence that expert help was needed.

IV

Conclusion

In this chapter, I have argued that, after 1940, parliamentary thinking about corporate financial reporting was shaped by an *advice* image. This marked a transformation from earlier images and was evidenced by a shift in legislative discourse towards the users of financial information and the decision contexts which they faced. I chose to review two elements of this evidence: Parliament's attempt to tackle the problem of corporate governance with enhanced corporate financial reporting, and its *de facto* delegation of responsibility for the information needs of investors to the accountancy profession.

CHAPTER SEVEN

EPILOGUE


We were wise indeed, could we discern truly the signs of our own times; and by knowledge of its wants and advantages, wisely adjust our own position in it. Let us, instead of gazing wildly into the obscure distance, look calmly around us, for a little, on the perplexed scene where we stand. Perhaps, on a more serious inspection, something of its perplexity will disappear, some of its distinctive characters and deeper tendencies more clearly reveal themselves; whereby our own relations to it, our own true aims and endeavours in it may also become clearer.

[Thomas Carlyle, Signs of the Times (1829)]

I

Introduction

The common sense history of corporate financial reporting legislation is simple: laws mandating financial reporting and audit are enacted by Parliament to protect the investing public. Since the first general requirements were enacted in 1844, when William Gladstone was at the Board of Trade, Parliament either alone or in collaboration with the accountancy
profession and the Stock Exchange, has progressively improved and refined the law in order to create the financial reporting system that prevails in the U.K. today.

It is an heroic story and, depending on who is telling it, the hero might be Parliament, the accountancy profession, or the Stock Exchange. It is also a simple story. We like it and we accept its terminology of progress and improvement because it allows us to take a certain pride in what we have achieved; it reassures us that our legislative interventions are not aimless but rather are guided by sound policy objectives. But grand narratives like this one can hide as much they reveal. They usually contain some essential truth, which is why they are popular, but closer inspection often reveals inconsistencies and anomalies that cast doubt on their surface plausibility – as, for example, in the case of the long-term failure to address the problem of secret reserves. It was in the knowledge that the common sense history of corporate financial reporting legislation contains such anomalies that I decided to scrutinise its version of events.¹⁶¹

It is now time to assess where this exploration has taken us and where it leaves us. In this final chapter I reflect on what I have learned about the development of corporate financial reporting legislation since 1844 and I ask whether my project brings us any closer to developing a theory of corporate financial reporting legislative change. I do this by reprising the thesis and drawing out relevant lessons as I proceed. The chapter concludes by considering how the line of research begun here might be advanced.

¹⁶¹ I am thinking here specifically of the Conservative MP, Mr. Bracken’s criticisms of Victorian and Edwardian legislators discussed in Chapter One. His criticism implied that, even if the law exhibits a general tendency towards improvement and refinement, it is not a smooth progression.
Faced with a broad self-imposed injunction to explore the legislative development of corporate financial reporting, I began by reviewing the extant literature. We saw in Chapter 2 that three promising theoretical frameworks, the ideological, the economic (public-choice), and the class-based (crises in capitalism) already existed in the scholarly literature that purported to explain legislative change generally and, in some instances, to explain change in corporate financial reporting legislation in particular. At this point there were a number of obvious ways in which the research might have proceeded – each involving some attempt to evaluate the extant theoretical schemas.

First, I could have taken the ideological route – i.e., sought to identify powerful political-economic doctrines prevalent at one time or another, such as Laissez-faire, Collectivism, Rationalism, perhaps even Thatcherism, and then identified how each influenced the corporate financial reporting legislative initiatives taken during the time-span of those same ideas. Such a study temptingly held out the prospect of building a general explanatory model of legislative change in corporate financial reporting over time - a history par excellence, where each piece of corporate financial reporting legislation could be read off the prevailing ideology. Unfortunately, while it was acknowledged that prevailing ideologies might sometimes provide clues to the broad tenor of legislative programmes, it was equally clear that the pathway between a political-economic doctrine (ideology) and the style of the corporate financial reporting provisions contained in company law is circuitous and noisy, too noisy in fact to allow anything but the most banal generalisations about the relationship between the two to be made. In fact, we saw in Chapter Two that the efforts being made by some scholars to forge a link between the economic doctrine of Laissez-faire and the style of nineteenth century companies legislation are widely contested, to say nothing of the likely reaction to any
putative attempt to extend this link to the corporate financial reporting provisions contained in that same companies legislation. In the event, we decided not to pursue this line of enquiry.

Second, I might have taken the public-choice route – i.e., tried to model the behaviour of the various interests operating in the marketplace for corporate financial reporting legislation, and sought to relate specific financial reporting legislative initiatives to any consequent wealth transfers favouring those interests. At first sight, the public-choice framework seemed to offer a reprieve from the difficulty of linking broad political doctrines to particular legislative provisions. Public choice theory neatly reduces legislative provisions to the economic interests of agents. However, while it was acknowledged that the behaviour of interest groups might help to explain why one particular financial reporting rule was mandated and not another, ironically, this focus was almost too limited to convey any sense of the broad style or complexion of corporate financial reporting legislation, which is what interested me. Where the appeal to the prevailing ideology was too general, the appeal to interest group activism was too reductionist. The legislative process is more than just a market and, hence, it was decided not to pursue an enquiry along public-choice lines either.

As a third possibility, I might have followed the Marxists down the crises in capitalism route – i.e., sought to situate specific corporate financial reporting legislative initiatives within a pattern of State responses to identified crises within modern capitalism. However, like the appeal to ideology, this is another highly abstract theory – in this instance focussed at the level of society. Like the appeal to ideology, any attempt to forge a link between higher order crises within the capitalist system and the much lower order corporate financial reporting faces the problem of mapping an enormously complex and noisy route from one to the other. Moreover, there is some evidence that it is precisely this noise problem that has some theorists linking corporate financial reporting rules to specific crises in capitalism, as Merino and Neimark, (1982) and Puxty (1997) do, while others, with apparent equal confidence, link the same rules
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to the lobbying activity of economic agents (Watts and Zimmerman; 1978, 1990). In the end, it was decided no to pursue an enquiry along these lines either.

Finally, I was tempted to wonder whether the three theoretical perspectives examined (i.e. the ideological, the public-choice and the class-based) might not be combined to produce something greater than the sum of the parts. I did acknowledge that, at some future time, each might constitute an element of a complex theory of corporate financial reporting legislative change, but I viewed this as a rather distant prospect. I concluded from this review and assessment that current theoretical understanding of the legislative change in corporate financial reporting was at a rather early stage of development and I decided to design a different type of research project.

Another reason for my general pessimism concerning the extant theoretical frameworks was the almost complete absence in any of these frameworks of a focus on legislative processes. A priori, it seemed to me that a theory of legislation or of legislative change should deal in a more comprehensive way with the Parliamentary Black Box so to speak. This was the launching pad for the research project that I devised. I decided to examine what Parliament was doing, or perhaps more accurately, what Parliament was thinking when it legislated on corporate financial reporting matters. I settled on trying to build this parliamentary perspective using the concept of a parliamentary image to explain the complexion and style of corporate financial reporting legislation. Deciding to pursue this line of enquiry necessitated three interconnected leaps of faith:

(i) a belief that the notion of a parliamentary image would in the course of the research project prove to be a meaningful concept;
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(ii) a belief that the notion of a parliamentary image could be operationalised to capture a significant and important element of the reality of making legislation; and

(iii) a belief that parliamentary images mattered to the outcome of legislation.

The first two of these refer, broadly speaking, to the capacity of the concept to carry the historical narrative that I was keen to document. The third refers to the power of the concept to explain legislative change. It should be said that, at this point in the research, I saw the primary focus of the thesis as historical-descriptive – identifying and describing the underlying images that had shaped parliamentary discourse during the period 1844 to 1985. Thus, my primary concern was that the first and second leaps of faith would prove to have been well-founded. That said, the research was not theoretically aimless, but my expectations of developing an explanatory theory of corporate financial reporting legislative change were not high. In the final analysis, however, the success of the research project rests on the extent to which, with hindsight, these three leaps of faith now seem justified. Admittedly, the narrative – explanation dichotomy is a little crude but it helps to order my treatment of these issues in the remainder of this discussion.

Parliamentary Images as Narrative

In order for the parliamentary image concept to succeed as a narrative device it had to deliver on two fronts: (i) it had to be meaningful in the sense that it could capture and express some significant feature or features of the legislative discourse pertaining to corporate financial reporting legislation; and (ii) it had to offer new insights into the development of corporate financial reporting legislation that were not already available. Let us now consider how the concept has measured up on both these counts.
I am acutely aware that a harsh critic might have put a stop to this research project before it began by pointing to the logical incoherence of the notion of a parliamentary image. This is not a trivial objection. As political institutions, legislatures breed disagreement, in-fighting, and intrigue. In daily news broadcasts we see that parliamentarians' participation in law-making varies widely as does their level of understanding of the statutes that they enact. Even among members of the Government, intellectual confusion about the intentions behind proposed legislation is often apparent. The sheer volume of legislation in modern democracies ensures that it could hardly be otherwise. In 1901, the British Parliament enacted 40 public-general acts amounting to a total of 247 pages; in 1991, 69 public-general acts were passed amounting to 2,222 pages (Zander, 1994:1). How could anything approaching coherent parliamentary imagery be said to exist today? I elided this objection in Chapter 3 by appealing for some latitude. My plea was based on a belief that we need concepts like parliamentary intention and parliamentary image if only because, without them, our legislative processes would seem anarchic. I am not entirely happy with this answer even though, at the time, it allowed me to proceed with the research.

Following my immersion in the legislative materials of the nineteenth and twentieth centuries, I would now want to make a more positive case for the reality of parliamentary images. However, this case depends in no small part on adopting a rather broad and expansive definition of a parliamentary image. The concept of parliamentary image cannot, except absurdly, be interpreted literally as some composite of the views or thoughts of Members of Parliament on a particular day or at a particular time. Rather, the concept can only be understood as expressing the dominant conceptualisation about a subject matter, or event, as

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162 Political intrigue can be as much part and parcel of company legislation as it can of more obviously controversial legislation. For example, in 1928, the Labour Party in opposition was convinced that the rejection of all of its proposed amendments for increased financial disclosure in the CA 1928 were rejected by the Tories because they did not want to be too hard on their friends the directors. When the tables were turned in 1967, the Tory Party in opposition believed that mandating disclosure of political donations in the CA 1967 was a politically vindictive move by the Labour Party intended to depress company donations to the Tories.
evidenced across the entire range of pre-parliamentary and parliamentary legislative discourse.\textsuperscript{163} Extending the definition in this way does not undermine the concept, but it shifts the emphasis away from the minds of Members of Parliament and towards the legislative process in its entirety, beginning with departmental reviews and ending with debates in the Houses of Parliament. It presumes that, taken in its entirety, legislative discourse will deliver up the images that are shaping legislative thought and action.\textsuperscript{164}

Working with the legislative materials permitted by this broad definition of a parliamentary image, this study has been able to create a typology of images that shaped corporate financial reporting legislation during the period 1844 to 1985. The research involved a detailed examination of the legislative history of all Companies Acts passed between 1844 and 1985. The typology was constructed on the basis of identified variations in pre-parliamentary and parliamentary language and metaphors, and variations in the implicit and explicit rationales enrolled to justify certain legislative preferences concerning proposed corporate financial reporting rules.

Three images in all were identified: Revelation, Assurance and Advice. In Chapter 4 we documented how the imagery of Revelation shaped parliamentary discourse about corporate financial reporting in ways that were specific to the period 1844–1900 and not to others. We saw how the Revelation imagery was employed by some to create and insulate a private or secret realm, and, at the same time, was employed by others to promote a culture that would expose deceit, lies and chicanery. We saw how corporate financial reporting legislative discourse throughout the latter half of the nineteenth century was characterised by an ongoing

\textsuperscript{163} By pre-parliamentary, I mean the work of Royal Commissions, Departmental Committees, Select Committees, etc.

\textsuperscript{164} In view of this more expansive notion of a parliamentary image, I have been considering whether it might not be more appropriate to use the term legislative image. This term does get around some problems associated with the term parliamentary image but it presents problems of its own, not least being that legislative cannot be used as a possessive noun. At this stage of the work, however, I have
tension between the competing interpretations that the revelation imagery seemed able to support.

By the early twentieth century, the revelation imagery had become exhausted. Sixty years of teasing out the principle of financial disclosure had finally resulted in the enactment of a balance sheet public filing requirement in the Companies Act 1907. Now that the main corporate financial reporting statement was in the public domain, so to speak, a new imagery began to shape parliamentary discourse about corporate financial reporting – an imagery of assurance. In Chapter 5 we documented how the assurance image shaped an entirely different legislative discourse to that of the nineteenth century – a discourse that employed notions of guarantee, reliability, and accuracy, advanced the cause of independent third party confirmation, and debated how directors could evidence their honesty and fair dealing via appropriately-designed, comprehensive information for shareholders. The detailed content of the financial report itself became the focus of concern whereas in the past it had been the idea of financial reporting that was at stake. The evidence presented to illustrate this changing discourse focussed on two crucial developments of the period that I termed inventing the statutory auditor and designing the statutory financial report.

After 1940, in tandem with the development of the capital market, the growth of take-overs and mergers, and the subsequent gravitation away from individual shareholding towards institutional share ownership, legislative discourse moved in a different direction, shaped by what I have termed the image of corporate financial reporting as Advice. In Chapter 6, I reviewed evidence of a legislative discourse that centred on the usefulness of financial reports, on the multiple users of such statements, and on the expectation that financial reports should decided not to attempt a radical revision of a concept that has been so fundamental to the whole endeavour.
convey decision-useful information. My assessment suggests that this imagery continues to shape legislative discourse right down to the present day.

On balance, therefore, I believe that my parliamentary images schema has worked well as a narrative device. It does seem to capture an essential component of the legislative process and it does provide new insights into the development of corporate financial reporting legislation by illuminating a relatively unexplored area of the legislative process. Although I am the first to admit that there is a wealth of material that I have not examined, I believe that, as a framework, the images schema offers scope for further development in that it allows room both for modification and/or expansion as further historical examination of sources warrants.

Parliamentary Images as Explanation

It is one thing to say that parliamentary images provide a fresh way of thinking and writing about the development of corporate financial reporting legislation; it is quite another to claim that the images framework developed here explains the style and complexion of the legislation – in other words, that I have developed a theory of legislative change. A strong theory should explain why acts, events, structures or thoughts occur. Do the three parliamentary images advanced here explain why the corporate financial reporting legislation turned out the way that it did? In order for them to do so there are at least two things one might expect: (i) that these images accurately describe the real imagery at work; and (ii) that the mechanism by which images shape legislation is made clear. How does this work measure up against these two requirements?

Clearly, the images that I am suggesting shaped parliamentary discourse can be contested. This might occur because it is believed either that they are the wrong ones, or because I have identified too many or too few. I have agonised over each of these possibilities and have
found it impossible to refine the scheme further. Nevertheless, this is a line of criticism that I welcome. It may be in the nature of this work that I am now trapped by my own typology. The test of the descriptive power of any alternative image(s) will surely be whether they offer a more coherent or more persuasive reading of the legislative discourse than the ones that I have offered. Certainly, I feel confident in the descriptive accuracy of the ones that I have identified – however, I would want to leave open the possibility that further enquiry might augment my scheme by adding additional images.

Before leaving this question I should like to say a few words concerning what some might wish to advance as a rather obvious alternative image – the image of corporate financial reporting as protection. In keeping with common-sense understandings of corporate financial reporting legislation, it might be argued that corporate financial reporting legislation has always been motivated by a desire to protect investors and, hence, that the image of corporate financial reporting as Protection explains more about the style of the legislation than do any of the images that I have presented. At no point would I wish to reject the idea that one of the primary aims of corporate financial reporting legislation was protection. In fact, I would go so far as to say that the desire to protect was present as much in 1844 as it is today. But in creating this typology, I was searching for features that would help discriminate between legislative eras and not ones that were common to all.

That said, anyone wishing to advance Protection as the image that shaped corporate financial reporting legislation has some difficult anomalies to explain away. Most of these have been referred to in Chapters Four, Five and Six. However, three stand out for me. The first was the repeal in 1856 of the mandatory financial reporting and audit rules enacted under Gladstone’s guidance in the Joint Stock Companies Act 1844, and the failure to re-enact any of these provisions until 1900. The second was the decision not to mandate the presentation of consolidated financial statements in 1928, by which time it was clear that group companies
were masking their true financial position behind meaningless holding company financial statements. The third was delaying until 1948 before legislating for professional auditing, despite overwhelming evidence from as early as 1850 that audits conducted by non-professional shareholders were inadequate. If investor protection is to be advanced as powerful imagery, it needs to deal with these and many other anomalies. My point is not that Parliament was unconcerned with the protection of investors, shareholders and the public – clearly it was. Rather, my point is that a Protection imagery was not dominant in shaping Parliament's thinking about corporate financial reporting.

Turning now to the second requirement of a strong theory of legislative change: that it should explain the mechanism by which images actually influence legislation. Tentatively, I would want to argue that the parliamentary images schema developed here does appear to explain the general complexion of corporate financial reporting legislation between 1844 and 1985 in a more understandable way than any of the three alternatives discussed in Chapter 2. In Chapters 4, 5 and 6, I believe that I have managed to forge a linkage between each image and legislation of the relevant period. However, I am the first to admit that this is some way short of a theory; it is certainly not a theory that sweeps away all others. There are two elements of the framework that need a more thought and work. As Figure 7.1. below illustrates, a theory of legislative change that has imagery as its centrepiece needs to be able to (i) explain the origins of images, and (ii) to explicate formally the linkage between legislative discourse and legislation.
Taking the first of these, I do harbour the ambition, which has been reinforced by my work so far, that images will form a centrepiece of a theory of legislative change. But, as I have said, there is more work to be done. Although I have not ignored the origins of imagery completely, I have not provided a clear enough analysis of the origins of the specific images that I have discerned. In other words, I have not answered the question, why Revelation, Assurance and Advice and not something else? I have tried to indicate the broad context within which certain types of legislative discourse seemed to emerge - but this is a limited perspective and needs further development. I believe that a promising line of enquiry might be to explore how ideology, interests and class-based perspectives might help us understand the origins of images themselves. In other words, I see the possibility of images becoming the conduit through which other variables such as ideology, economic interests and crises are refracted - see Figure 7.2 below:
Explicating the linkage between legislative discourse and legislation seems simple enough at one level. Throughout this thesis, I have tended to assume that legislation emerges relatively uncorrupted from legislative discourse and, by and large, this is what one might expect. Why else would legislative discourse be such an important feature of democratic life and law-making if it were not the central mechanism by which legislation comes into existence? But this relationship also needs to be more fully developed before I would be willing to make strong claims for the explanatory power of the images framework.

Clearly, I am being somewhat restrained in what I am willing to claim for images. Part of my restraint derives from a heightened sensitivity to debates concerning characteristics of a good theory.\textsuperscript{165} Intellectually, I expect a lot from a theory. I agree with Merton that \textit{theory is the answer to queries of why} (Merton, 1967), and I do not believe that I have yet provided all the answers to the \textit{why} question. Furthermore, the thought has certainly occurred to me that, in view of the complexity of the legislative process, a general theory of legislative change is an impossibility – akin to seeking the holy grail.

\textsuperscript{165} I attribute this to reading more philosophy than is good for one.
But I resist this for the present. For, as well as being an admirer of Merton, I have also found much to think about in Runkel and Runkel's (1984) effort to argue that theory is a continuum rather than a dichotomy, and which I now quote against myself:

Many social scientists hesitate to claim they are writing theory. We see titles of articles, even books, like An Approach to a theory of, ...Notes Toward a Theory of.....and A Prolegomenon to a Theory of......Instead of theory, we see words and phrases that mean about the same thing: Conceptual Framework for.....Some Principles of......Model of. Rarely do we see a title that says straight out: A Theory of.....

Perhaps some social scientists yearn for a Theory That Sweeps Away All Others. Perhaps they avoid being accused of overweening ambition by claiming not to be writing a Theory but only a conceptual framework or a model. We think it too bad to reserve theory to mean only Good Theory or Grand Theory or Unassailable Theory. We would like writers to feel free to use theory whenever they are theorizing. Modesty is all very well, but leaning over too far backward removes a good word from currency.

Theory belongs to the family of words that includes guess, speculation, supposition, conjecture, proposition, hypothesis, conception, explanation, model. The dictionaries permit us to use theory for anything from 'guess' to 'a system of assumptions, accepted principles, and rules of procedure devised to analyse, predict, or otherwise explain the nature of behaviour of a specified set of phenomena' (American Heritage Dictionary). Social scientists will naturally want to use terms with more care than they are used by the general populace. They will naturally want to underpin their theories with more empirical data than they need for a speculation. They will naturally want a theory to incorporate more than one hypothesis. We plead only that they do not save theory to label their ultimate triumph, but use it as well to label their interim struggles (1984:129-130).

Ironically, the only trouble with this encouragement – which I respect on a number of levels – is that I am attracted by their term interim struggle. It seems to me a very apt description for what I have been doing.
Speaking of struggles, doctoral research projects are, on more than one level, always a struggle. Many researchers that I have spoken with are only too delighted to put them aside, keen to launch into new, more exciting projects. My experience has not followed this pattern. For someone with my background - ten years in public accounting practice, followed by ten years teaching - an historical project offered a great deal. It facilitated building research skills while at the same time demanding some of those qualities and skills that come with experience: an interest in investigative work, an enthusiasm for reading widely, the confidence to offer personal interpretations, and a willingness to reflect. It has been an enormously interesting and, I believe, developmental intellectual journey.

Not only do I not regret having chosen this particular historical project, I look forward to the prospect of developing it. Like many doctoral candidates, I have now reached that point where I realise what I do not know. In the near future, I envisage two publishable outputs from the thesis. The first is a series of papers for the accounting history research community based on the images framework and the specific images of corporate financial reporting that I have discerned. The second is a monograph entitled: A Legislative History of Corporate Financial Reporting from 1844 to 2000, which will update the legislative dimension to include the Government's recent consultative document, Modern Company Law: Developing the Framework. This second output will not involve my abandoning the parliamentary images schema, rather, I will use the images framework to structure and write a more traditional legislative history and create what I hope may become an enduring reference guide to corporate financial reporting legislation enacted between 1844 to 2000. If I succeed in both these ambitions, I will consider this entire project to have been more than worthwhile.
Finally, what of Mr. Brendan Bracken’s criticism of Victorian and Edwardian legislators which prompted this enquiry in the first place? Clearly, nothing that I have said here should discourage criticism of the legislative interventions of our forebears. However, all criticism should proceed from an understanding of the perspective of those whom we would criticise. What I have tried to show here is that Victorian and Edwardian legislators conceptualised corporate financial reporting in quite different terms to those in which Brendan Bracken conceptualised it. Appreciating the different images that shaped their legislative programmes for corporate financial reporting will not render them immune from criticism, but it will provide a richer base from which to understand some of their intriguing legislative choices.
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Appendix E: Extract from the draft bill presented by the Davey Committee in 1895.
<table>
<thead>
<tr>
<th>Statute reference</th>
<th>Formal title</th>
<th>Main provision</th>
<th>Commonly known as</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 Geo. I. c.18</td>
<td>An Act for better securing certain powers and priviliges intended to be granted by His Majesty by two charters for assurance of ships and merchandises at sea, and for lending upon bottomry; and for restraining several extravagant and unwarrantable practices herein mentioned</td>
<td>To stop the formation of joint stock companies other than by Parliament or by charter</td>
<td>The Bubble Act, 1720</td>
</tr>
<tr>
<td>6 Geo. IV, c. 91</td>
<td>An Act to repeal so much of an Act... as relates to the restraining several extravagant and unwarrantable practices... and conferring additional powers upon his Majesty, with respect to the granting of charters of incorporation to trading and other companies</td>
<td>To repeal the Bubble Acts prohibition on the formation of joint stock companies</td>
<td>Repeal of the Bubble Act 1825</td>
</tr>
<tr>
<td>7/8 Vict., c.110</td>
<td>An Act for the registration, incorporation and regulation of joint stock companies</td>
<td>To permit incorporation by a simple registration process</td>
<td>Joint Stock Companies Act 1844</td>
</tr>
<tr>
<td>7/8 Vict. C.113</td>
<td>An Act to regulate joint banks in England</td>
<td>To permit the formation of joint stock by a simple process of registration</td>
<td>Joint Stock Banks Act 1844</td>
</tr>
<tr>
<td>18/19 Vict., c.133</td>
<td>An Act for limiting the liability of members of certain joint stock companies</td>
<td>To make limited liability generally available</td>
<td>Limited Liability Act 1855</td>
</tr>
<tr>
<td>19/20 Vict., c. 47</td>
<td>An Act for the incorporation and regulation of joint stock companies and other associations</td>
<td>A consolidation of the JSCA 1844 and the LLA 1855</td>
<td>Joint Stock Companies Act 1856</td>
</tr>
<tr>
<td>21/22 Vict., c.91</td>
<td>An Act to enable joint stock banking companies to be formed on the principle of limited liability</td>
<td>Extending limited liability to banks for the first time</td>
<td>Banks Limited Liability Act, 1958</td>
</tr>
<tr>
<td>25/26 Vict., c. 89</td>
<td>An Act for the incorporation, regulation and winding up of trading companies and other associations</td>
<td>A consolidation of company law</td>
<td>Companies Act 1862</td>
</tr>
<tr>
<td>Year</td>
<td>Act</td>
<td>Title</td>
<td>Description</td>
</tr>
<tr>
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<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1870</td>
<td>33/34 Vict., c. 61</td>
<td>An act to amend the law relating to life assurance companies</td>
<td>Regulating life assurance companies and imposing a quinquennial 'audit' by an actuary.</td>
</tr>
<tr>
<td>1879</td>
<td>42/43 Vict., c. 76</td>
<td>An Act to amend the law with respect to liability of members of banking and other joint stock companies; and for other purposes.</td>
<td>Imposes audit requirement on all limited liability banks.</td>
</tr>
<tr>
<td>1889</td>
<td>63/64 Vict., c.48</td>
<td>An Act to amend the companies act 1862</td>
<td>Introduced statutory audit and balance sheet for shareholders.</td>
</tr>
<tr>
<td>1890</td>
<td>7 Edwd., 7 c. 50</td>
<td>An Act to amend the companies acts 1862 to 1900</td>
<td>Introduced a legal distinction for the first time between public and private companies. Mandates public filing of balance sheet for public companies.</td>
</tr>
<tr>
<td>1900</td>
<td>8 Edwd. 7, c. 69</td>
<td>An Act to consolidate the Companies Act, 1862 and the Acts amending it.</td>
<td>A consolidation of all company law to date.</td>
</tr>
<tr>
<td>1907</td>
<td>11/12 Geo. 5, c.45</td>
<td>An Act to amend the Companies Acts, 1908 to 1917, and for purposes connected therewith</td>
<td>To update company law. Introduced the requirement to present a profit and loss account to shareholders.</td>
</tr>
<tr>
<td>1908</td>
<td>19/20 Geo. 5, c.23</td>
<td>An Act to consolidate the Companies Acts, 1908 to 1928, and certain other enactments connected with the said acts</td>
<td>To consolidate all company law to date.</td>
</tr>
<tr>
<td>1928</td>
<td>10/11 Geo. 6, c.47</td>
<td>An Act to amend the law relating to companies and unit trusts and to dealing in securities, and in connection therewith to amend the law of bankruptcy and the law relating to the registration of business names</td>
<td>First major amendment of company law since 1929. Introduced significant new financial reporting and auditing provisions, especially the requirement to present consolidated accounts to shareholders and to file the profit and loss account with the Registrar of Companies</td>
</tr>
<tr>
<td>1929</td>
<td>11/12 Geo. 6, c.38</td>
<td>An Act to consolidate the Companies Acts 1929 to 1947</td>
<td>A consolidation of all company law to date.</td>
</tr>
<tr>
<td>Year</td>
<td>Act Description</td>
<td>Notes</td>
<td></td>
</tr>
<tr>
<td>------</td>
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<td></td>
</tr>
<tr>
<td>1967, c. 81</td>
<td>An Act to amend the law relating to companies, insurance, partnerships and moneylenders.</td>
<td>Required enhanced financial disclosures, (e.g., turnover) and withdrew the exempt company privilege not to file accounts publicly</td>
<td></td>
</tr>
<tr>
<td>1976, c. 69</td>
<td>An Act to amend the law relating to companies and, in connection therewith, to amend the law relating to the registration of business names.</td>
<td>No significant changes to the financial reporting structure</td>
<td></td>
</tr>
<tr>
<td>1981, c. 62</td>
<td>An Act to amend the law relating to companies and business names.</td>
<td>The Act that gave statutory force to the EEC's Fourth Directive on Company Accounts. European-wide formats adopted for the balance sheet and profit and loss account and enhanced disclosures of financial information</td>
<td></td>
</tr>
<tr>
<td>1985, c. 6</td>
<td>An Act to consolidate the greater part of the companies acts.</td>
<td>The first consolidation since 1948.</td>
<td></td>
</tr>
</tbody>
</table>
Appendix B

Extracts from the Joint Stock Companies Act 1844

XXXV; And be it enacted, that fourteen days at least before the period at which the accounts are required to be delivered to the auditors as herein-after provided, the directors of such company shall cause the books of the company to be balanced, and a full and fair balance sheet to be made up; and that previously to such Balance Sheet being delivered to the Auditors as herein-after provided the Directors, or any three of their number, shall examine such balance sheet, and sign it as so examined; and that when the balance sheet shall have been so examined the Chairman of the directors shall sign such balance sheet, and that thereupon the directors shall cause the same to be recorded in the books of the company.

XXXVI; And be it enacted, that at each ordinary meeting of the shareholders, the directors shall produce such balance sheet to the shareholders assembled thereat.

XXXIX; And be it enacted, that twenty-eight days at least before the ensuing ordinary general meeting at which such balance sheet is required to be produced to the shareholders the directors shall deliver to the auditors the half yearly or other periodical accounts and the balance sheet required to be presented to the shareholders; and that the auditors shall receive from the directors such accounts and balance sheet and examine the same.

XLIII; And be it enacted, that within fourteen days after such meeting it shall be the duty of such directors and they are hereby required to return to the said Registry Office a copy of the Balance Sheet, and the Report of the Auditors thereon; and that thereupon it shall be the duty of the Registrar of Joint Stock Companies and he is hereby required to register or file the same with the other documents relating to the company. 1

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1 7&8 Victoria, c. 109, 110.
Appendix C

Extracts from the 1st printing of the 1856 Companies Bill which was ultimately enacted as the Companies Act 1856

XLVII: In the case of every company that carries on a trade or business having gain for its object, a balance sheet shall be made out in every year and laid before the general meeting of the company; and such balance sheet shall contain a summary of property and liabilities of the company arranged under the heads appearing in the form marked H in the schedule hereto or as near thereto as circumstances admit.

XLVIII: At any time within one month from the holding of a general meeting, before which any balance sheet has been laid, any shareholder may require a copy thereof to be given to him by the company, on payment of such a sum not exceeding sixpence for every 100 words and figures as the company may prescribe.

XLIX: A copy of such balance sheet, authenticated by the seal of the company shall within one month after preparation thereof be forwarded to the Registrar of Companies and registered by him; if it is not so forwarded, the company shall incur a penalty not exceeding five pounds a day for every day during which such violation of this section continues.
Appendix D

Letter from Sir Lennox Robinson to the Editor of *The Times* proposing to form a shareholders’ protection association

Dear Sir,

From time to time the question of a shareholders’ association has been raised. So far the proposal appears to have evoked little enthusiasm among those most likely to benefit from it. That the interests of shareholders and investors need special protection is evident from the successive companies acts and from the Bill recently promoted in Parliament after enquiry by a departmental Committee. In their report the Committee are emphatic as to the limitations of legislative protection. While they are clear that undue interference by Parliament in the internal affairs of companies is to be avoided, they contemplate a reasonable use of their powers by shareholders. In certain cases they propose that increased facilities be given for the exercise of those powers. But whatever the rights of shareholders may be, they cannot ordinarily be asserted without combined action.

The average shareholder is apathetic. Even if he be studious of his interests he may well feel that he has not the time, energy or resources required to organise the co-operation of his fellow shareholders. The ‘grousing’ shareholder is a well known phenomenon; and many a member of a company may prefer to remain silent rather than run the risk of being thought to follow an unreasonable example, while the average investor may also feel diffident as to the intrinsic soundness of his individual views on questions of law or accountancy or business or finance. Even in the case of malpractices, the path of remedy is not easy. A request for investigation by the Board of Trade must be supported by evidence showing that the application is well founded, and security may be required for the payment of the costs of the enquiry.

When it comes to the amendment of the law defining his rights and liabilities the shareholder can hardly be considered to be in a satisfactory position. More
than 9,000 public companies - not to mention over 80,000 private companies - are registered in England and Scotland. The members of many of these companies are in turn numbered by thousands. It seems anomalous that this large body should not be represented by any general association prepared to give evidence before such a committee as that which recently sat and to support its evidence with the carefully collected data which must obviously be sought when considering the question of the amendment of the law. In the long run, no doubt the interests of shareholders are identical with those of the established corporations representative of commerce and industry of law and accountancy, of banks and of the stock exchanges. But is there not scope for an association more directly representing the average shareholder and investor? British industry is based on the joint stock company and it is essential that the average shareholder should not only receive but should be convinced that he is receiving a square deal. While the recent committee were satisfied that the great majority of limited companies both public and private are honestly and conscientiously managed they recognised that abuses exist. Part of these they proposed to mitigate by legislation. But the prevention of by far the majority must depend on good sense, and where necessary, on the activity of shareholders themselves. No legislation can save the fool from his folly.

Day by day and week by week, the Press of the country is performing an invaluable task in enlightening the investor, in advertising such abuses of company law and procedure as from time to time occur, and giving publicity to the far-reaching developments which are taking place by sane and honest use of the joint stock system.

With increasing knowledge the public is becoming more critical of the management of joint stock companies. Some of its criticisms are unreasonable and suggest a misapprehension of the position. In other instances it is equally clear that the complaint is justified. Where the interest of great trust companies or of large individual investors are directly concerned these may well be able to look after themselves. But the small investor is in a different case. The savings of the nation are now so much below the standard of pre-war days that it is of importance not merely to the individual but to the country that the interests of the small investor should be considered to the full; and one cannot but feel that there is wide scope for an association which would organise shareholders and
investors for the promotion of their common interests. Such a body might well encourage a more active public interest in the provisions and practice of company law; might collect and record data affecting the interests of shareholders and investors; in certain cases advise shareholders in the exercise of their rights; call public attention to practices prejudicial to the interests of investors; take action in particular cases in which this might be thought desirable; and place itself in a position as opportunity may offer to express a reasoned opinion on proposals for the amendment of the law as enacted by Parliament or of the rules regulating the practice of the great corporations which already do so much for the benefit of the average shareholder.

In addition to a permanent secretarial staff such an association would from time to time require the advice of lawyers, accountants, and other experts, and substantial funds would be needed. But if a cause be good it will probably in the long run find support. The path of the association would be beset by pitfalls, but with care and prudence it seems likely that it might perform a work of public value. I am sir your obedient servant.

Lennox Russell
23 November 1927
Appendix E

Extract from the draft bill presented by the Davey Committee in 1895

29  (1) Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) If an appointment of auditors is not made at an annual general meeting, the Board of Trade may, on the application of any member of the company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(3) A director or officer of the company shall not be capable of being appointed auditor of the company.

(4) The first auditors of the company may be appointed by the directors before the statutory meeting, and if so appointed shall hold office until the first annual general meeting, unless previously removed by a resolution of the shareholders in general meeting.

(5) The directors of a company may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act.

30  The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting may be fixed by the directors.

31  (1) The auditors of every company shall require, and the directors or managers of the company shall supply to the auditors, (referred to in this Act as the private balance sheet) giving the details on which the shareholders' balance sheet is founded.
(2) The private balance sheet must be signed by all the directors or managers of the company when there are less than three and by two at least when there are more than that number.

(3) The auditors may require the directors and managers of the company to supply any further details or information affecting the balance sheet or any particular asset comprised therein, and shall sign a certificate at the foot of the private balance sheet stating whether or not all their requisitions as auditors have been complied with.

(4) The private balance sheet shall not be issued to the members of the company, but shall be kept by the directors as part of the records of the company.

32 Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company and shall be entitled to require from the directors and officers of the company such information and explanations as may be necessary for the performance of the duties of the auditors

Provided that if a company has branch establishments it shall be sufficient that the auditor is allowed access to such reports and copies of and extracts from the books and accounts of any such branch as may have been transmitted to the head office of the company.

33 The auditors of every company-

(1) shall use reasonable diligence with the view of ascertaining that the books of the company have been properly kept, and record correctly the financial and trading transactions of the company; and

(2) shall examine the balance sheet and other accounts presented to the members of the company, and shall report to the members of the company that so far as the auditors are in a position to form an opinion, the balance sheet and accounts have been drawn up in accordance with the provisions of this Act, and when taken together with any explanations attached thereto present a correct view of the state of the company's affairs, or if the auditors are unable to make such a
report, shall state in what respects the balance sheet fails to comply with these requirements.

34 If any director, manager or auditor knowingly violates any of the provisions of this Act with respect to accounts and audit, he shall, without prejudice to any other liability, be guilty of a misfeasance within the meaning of section 10 of the Companies (Winding-up) Act, 1890.

The provisions of this Act with respect to accounts and audit shall not apply to any banking company which is subject to any special statutory enactment with respect to its accounts and balance sheets, but shall take effect in super-session of any provisions with respect to accounts and audit in Table A to the Companies Act, 1862 or in any articles of association.
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