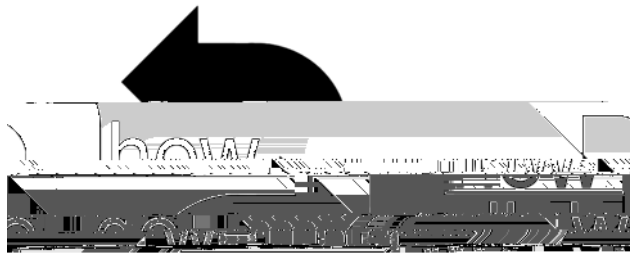


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Market Disciplines in Victorian Britain

Paul Johnson



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Series Editor:

Dr. Jonathan Adams
Department of Economic History
London School of Economics
Houghton Street
London, WC2A 2AE

Tel: +44 (0) 20 7955 6727
Fax: +44 (0) 20 7955 7730

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Abstract

One of the many miracles of Victorian Britain's market economy was that it worked most efficiently when it was left to regulate itself – or at least, this is what the great majority of Victorians

Introduction

The Victorian economy was a market economy like no other – bigger, faster, richer and more encompassing than man had previously seen. The tentacles of the market spread to every town and village, to every shop, to every place of work, binding buyers and sellers in a relationship of mutual exchange. This market offered opportunity for all-round benefit – as Adam Smith had remarked, it was not benevolence, but self-interest, that drove the buyer to buy and the seller to sell.¹ And self-interest required no prompting or guidance: for Smith and his Classical Economics successors, this individual quest for betterment was the driving force of the economy. The buyer would seek the lowest price, the seller would seek the highest, and they would each weigh up the other's propensity to honour the contract. Although these buyers and sellers, in their totality, constituted the market and so were economically sovereign (for without them there could be no trade), individually they were subject to the authority of the market. Deviation from the righteous path of the market price would lead to exclusion from trade, and a loss of

the results of the spontaneous activities of citizens, separate or grouped.²

But by this date the centre ground had moved, and Spencer's individualistic belief in the natural perfection of unguided market interactions seemed at odds wi

Market Discipline

when the bubble burst, with a rise of Bank Rate in the middle of October 1845, railway share prices plummeted.

Three aspects of this railway mania raised questions about the capacity of the market to discipline wayward behaviour. First, the automatic balancing effect of the price mechanism appeared to have failed: as share prices rose, the buyers demanded more, not less. The precarious nature of railway investment had been fully appreciated by many experienced City fi about the

prosperous working railway at the time, the Stockton and Darlington, was no more than 15 per cent, while the largest company in terms of length of track, the Great Western Railway, produced a modest 6 per cent dividend.⁷

Thirdly, the capacity of the market to reward prudence and punish excess was muted. When, at the end of 1845, it became clear that many railway promoters had projected lines that they knew would never be established, there began a “hurricane of litigation” as conflicting liabilities for losses were argued through the courts. These were not the losses of shareholders who had bought at the top of the market and seen their “investments” dwindle, since they could do nothing other than wring their hands, but of the creditors who had supplied millions of pounds of goods and services to provisional railway companies which subsequently went into liquidation and defaulted on their debts. Kostal has shown that after some legal prevarication, the courts privileged the position of the promoters and directors of provisional railway companies over that of

worth only one third of their value at the height of the boom in September

many others made handsome profits, and the episode gave a massive
stimul

predominant evil of Ireland.”

instead had to be transferred through slow, expensive and complex legal processes administered by the Court of Chancery.¹⁷

Overall, public policy intervention was grudging, and occurred when political expediency or humanitarianism temporarily broke through the binding constraint of official economic thinking which held that free markets could achieve more than any government agency. The Whig Chancellor of the Exchequer, Sir Charles Wood, and senior Treasury civil servant, Charles Trevelyan, both held to the view that government interference in the market for food would necessarily worsen rather than improve conditions for the poor in M 318 540.08054 1 629494.d necessarily woy 13.02 3

demonstrate the incapacity of the free market to respond in a period of crisis? There was never one view on this

Prices floated freely with supply and demand: not just corn prices after 1846, but prices for all goods and services throughout the economy. This was true equally for labour and capital. Wages were highest in the booming manufacturing districts of Lancashire and Yorkshire, and some 30 per cent lower in stagnant Cornwall.²² Interest rates were lowest for government debt, and rose with the riskiness of the borrower. Effort and enterprise were rewarded with high wages and profit; idleness and inattention punished with poverty and the bankruptcy court. The invisible hand could pat on the back or slap in the face according to the objective conditions of a competitive market. As government withdrew from interference with this market, the closer reality appeared to resemble

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Britain had shed almost all the legacy of mercantilist economic interventionism, and had simultaneously become the undisputed “workshop of the world.” But equally important was an intellectual shift in economic thought which, from the late 1840s, came explicitly to acknowledge that there were clearly defined circumstances in which the discipline of the market could not be relied on to produce optimal outcomes

Mill's pragmatism came to the fore in his discussion of market activity. In a manner familiar since Adam Smith he first set out a litany of the many erroneous arguments that had been advanced in support of government intervention in the market, and demonstrated why they were mistaken, and often counter-productive. He portrayed market competition as a mechanism for the attainment of harmonious stability, and famously stated that "*Laissez-faire*, in short, should be the general practice: every departure from it, unless required by some great good, is a certain evil."³⁰ But he then went on to identify a number of circumstances in which the market *systematically* failed to achieve efficiency and harmony. Mill identified three aspects of what today's economists call "market failure" – the cases of natural monopoly, public goods, and externalities. These all related to issues of contemporary policy debate, and Mill quite consciously attempted to provide a coherent set of principles for analysing and correcting what he saw as inherent problems with unregulated competition.

The issue of natural monopoly was already widely (if usually informally) recognised, and had received explicit attention from government.³¹ Mill noted that in most circumstances gas and water companies, and owners of roads, canals and railways, were monopolists, because it was not economically feasible for multiple suppliers to construct exactly parallel networks. Water and gas were essential commodities and "the charge made for services which cannot be dispensed with, is, in substance, quite as much compulsory taxation as if imposed by law." In these circumstances, he thought, provision could best be undertaken by municipal authorities, with expenses covered by a local rate (property tax). Transport services, particularly those provided for by

³⁰ Mill, *Principles*, Book V, ch. 11, s. 7.

³¹ James Foreman-Peck and Robert Millward, *Public and Privat*

effectively than could the government. These principles for identifying the circumstances in w

subsumed a married woman's legal and economic identity under that of her husband, and thus wives were unable legally to enter into credit contracts on their own behalf, other than for the purchase of necessities.⁴⁰ This inferior position of married women as subservient economic agents in the market economy was not substantially changed until the Married Women's Property Act of 1882, and full equality at law with their husbands was not achieved until 1935. Even such apparently progressive legislative developments as this were, according to Ben Griffin, "part of an alternative strand of liberal discourse which was instrumental in legitimating a project to privilege the wealthy over the poor and men above women."⁴¹

In circumstances where no clear interest group had a dominant political or economic position - for instance in the case of creditors and debtors involved in bankruptcy proceedings, the process by which market relationships were reconstructed could be both tortuous and unpredictable. Markham Lester has shown that the twists and turns of bankruptcy law and practice across the nineteenth century follow no simple linear path with respect either to legal formalism or to economic ideology. Instead they owe more to the effectiveness with which different interest groups forged alliances and solicited parlia posi 13.02 Tc -o02 433856.9Tw 2035

English labour mark

abatement of wages), and one person was ordered to be whipped.

Furthermore, as Steinfeld has shown, these prosecutions varied inversely with the unemployment rate, which indicates that employers made greater use of the criminal law to enforce contracts against workers when the labour market was tight. And prosecutions were concentrated in the industrial districts of the country: Staffordshire, Shropshire, Cheshire, Derbyshire, Lancashire, Yorkshire and Durham all had prosecution rates at or above 1 per 1000 of the population. Since almost all of those prosecuted were adult male manual workers, this suggests that perhaps 1 in every 200 working-class households in these counties experienced a prosecution each year.

posed by the Bill, and the Potters' Union was particularly active in organising opposition throughout the Midlands. Over 200 petitions, said to represent over two million workmen, were received by the House of Commons. With forceful opposition from radical reformers, the Bill was defeated.⁴⁶ This did not mean, however, that the provisions of the Master and Servant acts remained confined to narrowly specified trades. Over the next twenty years a series of court judgements developed an expansive reading of the 1823 Act to cover an extremely broad range of waged work, regardless of whether the engagement was for a specified term or for a specified task. Thus, by mid-century, time-work and piece-work were held equally to fall under the remit of the Master and Servant acts.⁴⁷

The mid-Victorian labour market came to be regulated by an increasingly anachronistic reading of a sixteenth-century statute. The section of the 1563 Statute of Artificers which related to leaving work unfinished was framed in terms of the specific tasks undertaken and duties discharged by artificers and servants. This made sense in an economy in which virtually all production was "bespoke", in the sense of individual workers manufacturing unique products. The nineteenth century legislation preserved this language, yet the organisation of production was by then very different. By the 1840s many working men and women in the textile, metal and engineering trades literally never finished their work, because for them, as for the stylised worker in Adam Smith's pin factory, their daily labour involved not the complete making and finishing of a good or object, but the performance of an intermediate process. Here we see very clearly the way in which the labour market

⁴⁶ Sidney and Beatrice Webb, *History of Trade Unionism*, London, 1896, p. 167; Daphne Simon, "Master and servant." In J. Saville (ed.), *Democracy and the Labour Movement: Essays in Honour of Dona Torr* (London, 1954), pp. 160-200.

⁴⁷ Steinfeld, *Coercion*, pp. 142-53.

was, until the repeal of the Master and Servant acts in 1875, disciplined by the law, and by law that was extremely and deliberately partisan.

The same holds for the capital market. The second half of the nineteenth century witnessed a transformation in the structure of commercial capital in the British economy. In 1844 there existed just 947 joint-stock companies in England; with the exception of a small number of mutual insurance societies, virtually all other businesses were organised as partnerships. After the passing of the 1844 Joint Stock Act, the number of joint-stock registrations rose slowly, and by 1885 they accounted for between 5 and 10 per cent of all business organisations in England.⁴⁸ The partnership form remained numerically dominant, but from the mid 1880s the limited liability joint stock company became increasingly popular and economically significant, with more than 62,000 registered by 1914. According to Jefferys, the period 1885

Bibby and Sons, all converted from partnership to company form, but made no public issue of shares.⁵⁰

Why did so many proprietors choose to jump through legal hoops just to change the form, but not the function, of their businesses. The answer, I believe, is that it allowe

power as a means of obtaining unjust and expensive privileges for themselves.”⁵² Yet they were hamstrung by their belief in the key tenet of political economy – that the free market generated natural, fair and efficient outcomes. In fact, no market is natural or free, and the market in Victorian England incorporated legal biases that operated in favour of different interest groups, particularly those owning capital. These biases did not emerge by chance: the detailed reform of multiple aspects of commercial and contract law between the 1830s and 1880s created a specifically Victorian form of market discipline which privileged the interests of “insiders”. This privilege was concealed, both by the technical apparatus of the law and legal system, and by the ideological apparatus of political economy. Legal theorists such as Charles Addison purveyed the view that “the law of contracts may justly indeed be said to be a universal law adapted to all times and races, and all places and circumstances, being founded upon those great and fundamental principles of right and wrong deduced from natural reason which are immutable and eternal.”⁵³ Such equanimous readings of the legal system could scarcely be challenged in the early years of Victoria’s reign by a popular radicalism which was, according to Biagini and Reid, “predominantly legalistic and constitutional” in outlook, or in the later years by a labour movement that was intently concerned with safeguarding and strengthening its own legal standing.⁵⁴ And political economists had been extremely successful in constructing a popular image of competitive exchange as a morally and politically neutral activity; as the *Economist* put it, “Mutual higgling, then, in perfect freedom seems

⁵² P. Harling, *The Waning of Old Corruption* (Oxford, 1996), p. 256.

⁵³ C.G. Addison, *A Treatise on the Law of Contacts and Parties to Actions ex contractu* (London, 1845), p. v.

⁵⁴ Eugenio F. Biagini and Alastair J. Reid, “Currents of radicalism, 1850-1914’, in *idem*, *Currents of Radicalism* (Cambridge, 1991), p. 11.

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