School of Accounting

Accountability of Early Western Australian Banks (1837-1880)

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This thesis is presented for the degree of
Doctor of philosophy
of
Curtin University

January 2022

DECLARATION

To the best of my knowledge and belief this thesis contains no material previously published by any other person except where due acknowledgment has been made.

This thesis contains no material which has been accepted for the award of any other degree or diploma in any university.

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ABSTRACT

This Thesis by Compilation comprises three published peer reviewed journal manuscripts framed by an exegesis detailing the research methods and contribution. Applying legal origin theory, the study explored colonial institutional and legislative influences on financial accountability in early Western Australian (WA) banks. The research question posed in this study was: *What evidence of accountability in the financial reports of early Western Australian banks (1837 – 1880) was informed by English, Scottish, Irish, United States and Canadian institutional and legislative initiatives?*

The historical development of regulated financial accountability in colonial WA has largely been ignored in the extant literature. This Thesis by Compilation addressed this gap for early WA banks. Mixed research methodologies and accounting historiography techniques were employed in the three manuscripts. Each manuscript makes a valuable contribution and together they convey the journey of historical financial legislative discovery in nineteenth century England and its colonies ending in WA in 1880.

Publication 1 in *Financial History Review* applied narrative analysis techniques of Hansard and Mirror of Parliament transcripts to appraise the concepts of accountability in mid-nineteenth century British legislation following the financial crises in England in 1825-6 and 1836-7. Both laissez-faire and interventionist principles to banking regulation and financial accountability were observed between 1825 and 1844. Cumulative parliamentary reforms pioneered the Joint Stock Banks Act 1844 (UK), with application in England.

Publication 2 in *Business History* applied comparative legal analysis to review 503 banking Acts of the US, Canada and England. The study compared instruments of financial accountability across international borders that may have informed legislative accountability in Britain. Findings suggest that provisions in enactments of the US and Canada preceded the Joint Stock Banks Act 1844 (UK) and Companies Act 1862 (UK) in relation to expectations of formal accounts.

Publication 3 in *Accounting History* used textual analysis to examine patterns of accountability within 192 quarterly returns and three annual returns

of the three early WA banks and compliance of these banks with local enactments between 1837 and 1880. During this harsh and evolving period of early settlement, WA banks demonstrated a willingness to prepare timely quarterly returns and kept up to date with colonial government accountability reforms.

Research findings confirm both direct and indirect transplants of legislative accountability. The direct origins of legislative accountability in early WA banks can be traced to transplants from Britain. This aligns with the concepts of legal origin theory whereby the coloniser transplants legislation to its colony. However, findings also revealed how early WA banking legislation indirectly embodied international constructs of accountability from other transnational precedents. A thorough review of accessible legislation infers that British instruments of accountability were influenced by transnational precedents from the United States (US) and Canada. This is important as it expands on the premise of legal origin theory by supporting the reciprocal exchange of legislative ideas between origin and transplant countries.

ACKNOWLEDGEMENT OF COUNTRY

We acknowledge that Curtin University works across hundreds of traditional lands and custodial groups in Australia, and with First Nations people around the globe. We wish to pay our deepest respects to their ancestors and members of their communities, past, present, and to their emerging leaders. Our passion and commitment to work with all Australians and peoples from across the world, including our First Nations peoples are at the core of the work we do, reflective of our institutions' values and commitment to our role as leaders in the Reconciliation space in Australia.

ACKNOWLEDGEMENTS

I would like to acknowledge the contribution of an Australian Government Research Training Program Scholarship in supporting this research.

To my supervisor's Dr Lisa Cullen and Associate Professor Alistair Brown:

Lisa, you have been the most amazing mentor and friend throughout completion of my PhD. I have valued your support and encouragement throughout the process and have learnt so much from working with you.

Alistair, thank you for encouraging me to publish! Your wealth of knowledge and helpful feedback has been invaluable throughout my PhD and you have inspired me to continue on my research journey.

Thank you to Dr Joanne McEwan and each of the anonymous reviewers for their assistance during submission of the publications. I would also like to acknowledge the assistance of staff at the State Records Office of Western Australia in providing access to historical records.

Finally, thank you to my immediate family, my husband Aaron and children Ethan and Sienna for supporting me through this journey. Thank you also to my extended family and friends who have always believed in me.

DEDICATION

I dedicate this PhD thesis to my husband Aaron Game, my number one supporter and best friend. Aaron, you have always believed that I was destined for something great and in doing so you encouraged me to reach beyond my goals. Without your ongoing love and support, this PhD would not have been possible.

I further dedicate this thesis to my two amazing children. I have said all along that in completing this PhD I had hoped to inspire you both to believe that you can achieve anything. Dream big and believe in yourselves as you both have so much to offer.

A final dedication is to my mum, dad and brother. I would not be who I am today without you. Thank you for all your love and encouragement, I am forever grateful.

PUBLICATIONS SUBMITTED AS PART OF THIS THESIS

Journal Articles (Peer Reviewed)

Publication 1

Game, C. S., Cullen, L. M., & Brown, A. M. (2020). The rise of financial accountability in British joint stock banks: 1825 to 1845. Financial History Review, 27(2), 234-255. https://doi.org/10.1017/S0968565020000086

Publication 2

Game, C. S., Cullen, L. M., & Brown, A. M. (2020). Origins resting behind banking financial accountability of paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK). Business History, 1-25. https://doi.org/10.1080/00076791.2020.1718109

Publication 3

Game, C. S., Cullen, L. M., & Brown, A. M. (2018). Accountability and financial statement presentation of early Western Australian banks, 1837–1880. Accounting History, 23(4), pp. 555-574. https://doi.org/10.1177/1032373218759972

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STATEMENT OF CONTRIBUTION OF OTHERS

All of the written materials submitted as part of this Thesis by Compilation were conceived and coordinated by Chantal Game. Chantal also undertook the majority of the empirical data collection, analysis and writing for each publication. The degree of my contribution on each article are summarised below in brackets. Signed detailed statements from all co-authors relating to each publication are provided as appendices at the back of this volume (Appendix A).

Publication 1

Game, C. S., Cullen, L. M., & Brown, A. M. (2020). The rise of financial accountability in British joint stock banks: 1825 to 1845. Financial History Review, 27(2), 234-255. https://doi.org/10.1017/S0968565020000086 (80%)

Publication 2

Game, C. S., Cullen, L. M., & Brown, A. M. (2020). Origins resting behind banking financial accountability of paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK). Business History, 1-25. https://doi.org/10.1080/00076791.2020.1718109 (80%)

Publication 3

Game, C. S., Cullen, L. M., & Brown, A. M. (2018). Accountability and financial statement presentation of early Western Australian banks, 1837–1880. Accounting History, 23(4), 555-574.
https://doi.org/10.1177/1032373218759972 (70%)

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1. INTRODUCTION

This Thesis by Compilation comprises three peer reviewed manuscripts that examine the development and influences on financial accountability in Western Australian (WA) banks during the period 1837 to 1880. 1837 marked the introduction of a formal banking system with the opening of the WA colony's first bank as well as the corresponding legislation to govern its operations. The period ended in 1880, just prior to a rapid expansion phase in the colony with the start of the gold rush.

Accountability is the discharge of stewardship responsibilities through the reporting of financial information to key stakeholders (Llorens, 2004). The concept of 'financial accountability' may include the notion of both mandatory and non-mandatory financial disclosure. Here, non-mandatory financial disclosure is linked to the voluntary practice of reporting financial information, whereas mandatory financial disclosure is linked to financial reporting mandates imposed through regulation. Banks during the nineteenth century held a close association with both public and private stakeholders due to the services they provided and the reliance on their ongoing financial stability (Sánchez-Ballesta & Lloréns, 2010). Note issue was an important function of banks during the nineteenth century. However, risks associated with excessive issue and convertibility of notes raised concerns of monitoring and control, particularly after a number of financial crises impacted the stability of the banking sector. The political and economic importance of banks meant that the industry maintained a position of significant interest to regulators (Parker, 1990). The provision of financial reports by banks in the nineteenth century was seen as a form of stewardship, providing evidence of stability in the financial system and increasing the trust of stakeholders and the public in the banks conduct (Lloréns, 2004). In this regard, the benefit of regulation was to secure the practice of publication and/or communication of financial information to key stakeholders. Despite this, accounting historians generally observed the period as one of laissez-faire, with only minor developments in accounting regulation (Jones and Aitkens, 1994).

As shown in Figure 1, the exploration of financial accountability in this research began in 1825 with Publication 1; *"The rise of financial accountability*

in British joint stock banks: 1825 to 1845". Nineteenth-century parliamentary Hansard transcripts surrounding the 1825-6 and 1836-7 financial crises reveal the laissez-faire and interventionist approaches to regulatory reforms in the banking industry. Importantly, the incremental approach to legislative reform is elaborated along with the influence of Lord Althorp and Robert Peel on the Bank Notes Act 1833 (UK), the Joint Stock Banks Act 1844 (UK) and the Bank Charter Act 1844 (UK) are outlined. These Acts underscore the early influence on WA banking Acts elaborated in Publication 3.

Figure 1: Research Schema

The influence of legal origin theory on legislative initiatives are examined in Publication 2; *"Origins resting behind banking financial accountability of paragraphs 78-82 of the First Schedule of the Companies Act 1862 (UK)".* Although financial accountability differed across countries, findings suggest a reciprocal transfer of legislative ideas between England, Scotland, Ireland, the United States (US) and Canada, with legislative ideas converging by the mid nineteenth-century. The Colombia Banking Act 1817, Canadian Mauritius Regulations 1830, and the Joint Stock Banks Act 1844 (UK) influenced regulated financial accountability practices introduced by the Companies Act 1862 (UK).

The research concludes with Publication 3; *"Accountability and financial statement presentation of early Western Australian Banks, 1837-1880".* Findings demonstrate that colonial WA banks kept pace with accountability reforms keeping stakeholders informed with financial statement presentation increasing in sophistication over the 43-year period examined. The Banks Act 1837 (WA) and Joint Stock Companies Ordinance 1858 (WA) were key enactments of the period.

The remainder of this chapter outlines the key research objectives, research questions and significance of the research. Chapter 2 elaborates on

legal origin theory that underpins the research along with a thorough thematic analysis of international banking accountability literature pertinent to banking accountability in colonial WA. The key methodologies adopted for the three publications are outlined in Chapter 3 while Chapter 4 summarises the key findings and contribution of each publication. Chapter 5 concludes the Thesis by Compilation and provides a thorough explanation of the research contribution along with limitations and areas for future research. Chapter 6 provides a list of references used in the exegesis and Chapter 7 provides copies of the accepted manuscripts.

1.1 Research Objectives

The principal research question posed in this study is:

> *What evidence of accountability in the financial reports of early Western Australian banks (1837–1890) was informed by English, Scottish, Irish, United States and Canadian institutional and legislative initiatives?*

The Thesis by Compilation incorporates three primary objectives in order to address the research question and reveal the transformation of banking financial accountability in England, Scotland, Ireland (the UK), the US and Canada for the period under review. Firstly, it was prudent to establish the notions of nineteenth century concepts of accountability across the UK to set the scene of early legislative pursuits in the banking industry. This is addressed in Publication 1 where Hansard records between 1825 and 1845 reveal parliamentary reforms. Secondly, the concept of legal origin theory is expanded by exploring the potential of a reciprocal exchange of legislative ideas between former colonies and coloniser. To achieve this, Publication 2 applies a comparative legal analysis whereby legislative instruments were compared across the UK, US and Canada in pursuit of discovering direct or indirect influences on the financial accountability of early WA banks. Thirdly, and addressed in Publication 3, patterns of accountability of early WA banks are identified and compliance practices of early WA banks with local banking enactments are reviewed.

1.2 Research Questions

A number of sub-questions to support the primary research question are explored within the publications:

1. *"What developments in the financial accountability of British banks occurred as a result of parliamentary reforms following the financial crisis of 1825-6 and 1836-7?"* Publication 1: *"The rise of financial accountability in British joint stock banks: 1825 to 1845"* examines this question by exploring Hansard transcripts. (Game et al., 2020)
2. *"What evidence of financial accountability of the Companies Act 1862 (UK) was informed by eighteenth and nineteenth century banking enactments of the United States, Canada and England?"* Following a review of 503 banking enactments, this question is answered in Publication 2: *"Origins resting behind banking financial accountability of paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK)."* (Game et al., 2020)
3. *"What patterns of accountability were evident in the early financial statements of WA banks from 1837 to 1880?"* Following a review of 192 quarterly returns and three annual returns of early WA banks, this question is addressed in Publication 3: *"Accountability and financial statement presentation of early Western Australian banks, 1837-1880."* (Game et al., 2018)

1.3 Significance

The present research is important for a number of reasons. Firstly, WA has generally been overlooked in historical research dedicated to the development of financial reporting, accountability and disclosure requirements of banks. Specifically, prior research has not examined patterns of financial accountability or disclosure practices of early colonial WA banks between 1837 and 1880. This gap is addressed in the study with findings complementing the existing narrative, providing a broader view on the development of regulated banking financial accountability in colonial Australia.

Secondly, events in Colonial WA evolved differently to those of the Eastern State colonies (Bashford & Macintire, 2013). This was an important

consideration of the study, as it provided the colony of WA with a sense of individualism in the progression of the commercial enterprise and formal governance.

Thirdly, support for legal origin theory is expanded and strengthened. Companies' legislation has traditionally guided financial accountability requirements, with banking entities the first recipients of mandated corporate disclosure in 1836 (Carnegie, 2009; Lipton, 2007). The study applies legal origin theory, to explain how early WA banking legislation indirectly embodied overseas precedents of accountability and legislative frameworks. Specific constructs of early WA banking 'accounts' are linked to an international framing of accountability. In this context, the study finds support to posit how incremental strands of accountability were directly transplanted to the colony of WA through British imperial diffusion. The international significance of this is that the legislative accountability of Britain was also informed by notions of financial accountability from foreign fields such as the United States and Canada. This is significant in that it clarifies how banking legislation of the British imperial state, influenced by notions of accountability from afar, leveraged power at the centre to further the imperial interest in the colony of WA.

2 THEORETICAL FRAMEWORK AND LITERATURE REVIEW

This chapter introduces legal origin theory as the theoretical framework that underpins this study. It further provides the literature review that signifies the international development of banking financial accountability in England, Scotland, Ireland, Canada and the US. This section also addresses the convergence of the banking systems of England, Scotland and Ireland in 1845. Lastly, the literature review provides an historical overview on the rise of colonial banks in WA and related banking legislation.

2.1 Legal origin theory

Legal origin theory attempts to articulate the development of company law as a result of legal transplants (Fairfax, 2009). The theory posits that an origin country transplants legal traditions because of colonisation or conquest (Fairfax, 2009). The two dominant legal regimes include the English common law and French civil law with the former focused on judicial case law, and the latter, on codes and statutes (Game et al., 2018). In addition to guiding the regulatory environment, the transplant of legal traditions is believed to influence a country's response to social, political and economic problems (Fairfax, 2009). Here, the theory has led to studies focused on the strength of shareholder and creditor rights, with results indicating that the common law (in contrast to civil law) provides greater protection (La Porta et al., 1997, 1998). Extending these studies, another body of research has explored the impact of these factors on the development of accountability practices by the corporate enterprise (Hope, 2003; Jaggi & Low, 2000). Similarly, the present study, applies legal origin theory and explores the development of regulated financial accountability in Western Australian Banks during the colonial era (1837 to 1880). However, this Thesis by Compilation varies in its application of legal origin theory by also considering the reciprocal exchange of legal ideas between origin and transplant countries. Specifically, England, Scotland, Ireland, the US and Canada and how these might have informed the banking regulatory environment in colonial WA.

By the time WA was colonised in 1829, Britain had already implemented well-developed principles for applying general laws in newly settled territories (Castles, 1963). Application of laws was dependent on whether territories were

acquired by conquest, ceded, or by peaceful colonisation (O'Connell, 2014). British laws were imposed on WA from establishment as a Crown Colony in 1829 (Castles, 1963). Enacted British laws applicable to the colony of WA at the time of settlement were received under the system of common law (Castles, 1963). Whilst transfer of British law may not have suited colonies during infancy, the general expectation was that the colony would adapt and that the power to remodel elements of such laws would lie in the hands of colonial legislatures if the laws remained complimentary to the British regime (O'Connell, 2014). British migration also meant that British law was imposed upon individuals already accustomed to its basic principles (Berkowitz et al., 2003).

> *In sparsely populated territories with a favourable disease environment, the common law was extensively implanted and fitted well with the colonial society. This led to a more intense transfer, which made it possible to develop a legal system that is comparable in many respects to the British one. In these cases, the positive features associated with the common law are expected to prevail, and therefore the legal system can provide good protection of investor and creditor rights as well as be efficient at enforcing private contracts and debts (Oto-Peralias & Romero-Avila, 2014, p.573).*

The systematic adoption of British laws, rules and legal institutions in the colony of WA significantly influenced the corporate form and accountability practices, led by the banking sector (Butlin, 1961). The banking sector across Australia was culturally conditioned to customs of the British Treasury and the Bank of England (Merrett, 1995). Publication 1 explored the legislative trajectory of key banking Acts of Britain between 1825 to 1845 to understand the development of the regulatory environment and the financial accountability clauses contained within. The Country Bankers Act 1826 (UK) and the Bank Charter Act 1833 (UK) influenced early banking legislation in WA (Butlin, 1968). When applying to the local government for a legislative act to govern banking entities in the colony of WA, the Directors specifically agreed to

conform with relevant Acts already applied in England ("The Bank of Western Australia", 1837).

The Banks Act 1837 (WA) was substantially based on The Country Bankers Act 1826 (UK). The two Acts varied in respect of financial accountability as detailed. Section 13 of the Banks Act 1837 (WA) prescribed specific account keeping requirements. This section of the Banks Act 1837 (WA) appears to align with section 8 of the Bank Charter Act 1833 (UK) which required a weekly account to be kept of the amount of bullions and securities belonging to the said governor and company as well as of notes in circulation and amounts of deposits. Weekly accounts were to be transmitted weekly to the Exchequer. The same accounts were to be consolidated monthly and then the average state of the previous three months accumulated and published in the London Gazette. Section 13 of the Banks Act 1837 (WA) whilst requiring weekly and quarterly accounts of average notes in circulation and amounts of deposits remained silent on mandating publishing requirements.

Publication 2 focused on the origins of financial accountability clauses contained within the Companies Act 1862 (UK). The Act appeared to be the primary model copied within the British colonies including Australia (Lipton, 2007). However, WA's first companies legislation, The Joint Stock Companies Ordinance 1858 (WA) was based on the Joint Stock Companies Act 1856 (UK). It was not until the Companies Act 1893 (WA) that companies legislation in WA was updated to accord with English Law as amended between 1862 and 1891 ("Companies Bill", 1892). Consistent with the UK, banks were excluded under section 2 of The Joint Stock Companies Ordinance 1858 (WA) meaning early WA banks registered under the Banks Act 1837 (WA) operated as partnerships with unlimited liability.

As explained in Publication 3, the passing of individual Acts in WA for banking entities provided for limited liability. This included the National Bank of Australasia in 1866 (30 Vict., No. 9) and the Western Australian Bank in 1879 (2 Vict., No. 33). Therefore, limited liability appeared as a default inclusion in the Joint Stock Companies Register. The Acts also included a requirement for weekly accounts, statements and general abstracts of assets and liabilities to be made out weekly. Further, quarterly statements (from weekly statements) were to be prepared with the addition of capital stock paid

up, the rate and amount of last dividend and the amount of reserved profits. A substantial change in the presentation of financial statements from the requirements mandated by the Banks Act 1837 (WA), the Acts also imposed the requirement for publication in the government gazette. Whilst similar in many respects to the form of returns prescribed in the Colonial Bank Regulations, timing for preparation and lodgements varied as did the requirement for inclusion of equity components.

2.2 International development of banking accountability

This section provides an overview of the international banking framework of England, Scotland, Ireland, the US and Canada.

2.2.1 England

Until 1826, and with the exception of the Bank of England which operated under its own charter, British banks were mostly private banks managed by a small number of partners with unlimited liability (Barnes & Newton, 2017; Shearer, 2005). The Bank of England was established as London's first bank in 1694 with the purpose of raising funds for the government (Collins, 1988). The monopoly of the Bank of England was reinforced in 1697 with an Act preventing the setup and operation of any other banking corporation in England (Checkland, 1975). The monopoly was further confirmed with the passing of The Bank of England Act 1708 (UK) which restricted English banks to no more than six partners. The six-partner rule was said to hamper banking development in England as it "promoted instability in English banking by preventing the formation of joint stock banks large enough to be adequately capitalized and diversified" (Capie & Wood, 1991, p.40).

A number of developments in British banking legislation occurred between 1825 and 1845 (see Table 1, Publication 1). In response to the 1825-6 English banking crisis, the Bank Notes Act 1826 (UK) was introduced. The Act banned note issues under five pounds in England and introduced mandates of financial accountability on the Bank of England. Section 6 stated the bank was to provide a monthly account of notes in circulation under five

pounds and the total notes in circulation. Publication was required in the London Gazette.

A further response to the 1825-6 English banking crisis, The Country Bankers Act 1826 (UK) was enacted with the purpose of bringing stability back to the English banking sector (Barnes & Newton, 2014). The Act amended the monopoly held by the Bank of England, allowing the formation of joint stock banks outside a 65-mile radius of London raising the practice of branch banking (Barnes & Newton, 2017). Accountable governance was detailed in section 4 and section 5 of the Act. Section 4 of The Country Bankers Act 1826 (UK) required a return in prescribed form to detail the name of the firm as well as members and public officers of the bank. The return was to be delivered to the London Stamp Office prior to the issue of any notes. Section 5 of The Country Bankers Act 1826 (UK) required the return to be verified by the secretary and a like return lodged annually.

The monopoly of the Bank of England was further amended by the Bank Charter Act 1833 (UK) which removed the 65-mile exclusion zone permitting banks to establish in London, albeit without note-issuing rights (Barnes & Newton, 2017). The introduction of the Bank Charter Act 1833 (UK) bought about increased financial accountability requirements with section 8 of the Act requiring an account of bullion and securities (that belonged to the Governor and company), notes in circulation and deposits in the Bank of England to be sent weekly to the Chancellor of Exchequer. The accounts were to be consolidated monthly and an average compiled of the preceding three months published in the London Gazette monthly.

The failure of a number of prominent banks in England under the existing UK legislation, including the Northern and Central Bank in 1836 along with rising anxiety about the increasing number of joint stock banks revisited concerns on banking stability (Newton & Cottrell, 1998). In response, legislation was secured in 1844 (Bank Charter Act 1844 (UK) and the Joint Stock Banks Act 1844 (UK)) that set out to restrict the formation of joint stock banks and reaffirmed charter-based incorporation with capital limitations (Barnes & Newton, 2017). Large branch networks were discouraged, and the Bank of England was the only bank with the power to increase their note issues. As indicated in Publication 1, the Bank Charter Act 1844 (UK)

represented a turning point in aligning the banking sectors of England, Scotland and Ireland.

Section 6 of the Bank Charter Act 1844 (UK) prescribed financial accountability requirements for the Bank of England. The bank was required to prepare an account of bank assets and liabilities to be sent weekly to the commissioners in prescribed form detailing the amount of the Bank of England notes issued, gold coin, bullion, securities, capital stock, deposits, and of amounts of government debt and securities. Accounts were to be published in the London Gazette. Section 18 of the Bank Charter Act 1844 (UK) required all other note issuing banks to lodge a return weekly in prescribed form including the amount of notes in circulation on a daily basis as well as average notes in circulation for the same period. The return was to also include four week averages of notes in circulation, along with the total amount of notes the bank was authorised to issue. The London Gazette was to publish that part of the return disclosing weekly averages. Mandates of financial accountability for joint stock banks were contained in section 4 of the Joint Stock Banks Act 1844 (UK). Requirements included the publication of assets and liabilities of the company at least once per month and for the yearly communication of a profit and loss statement and balance sheet to shareholders.

Dissatisfaction with the restrictive branching measures of the Bank Charter Act 1844 (UK) fuelled by the ongoing instability of the banking sector resulted in the repeal of the Act in 1857, allowing banks to register under general companies legislation, although without limited liability (Parker, 1990). Eventually, the Companies Acts of 1858 and 1862 liberalised the British banking sector, allowing incorporation of banks with limited liability (Newton, 2007). Detailed in Table 2 of Publication 2, financial accountability regulations were framed in the First Schedule, Table A (Regulations for management of a company limited by shares), Paragraphs 78 to 81[1] of the Companies Act 1862 (UK). Paragraph 78 required the Directors to keep accounts of the stock in the trade of the company, money received and paid in respect of receipts and

[1] Requirements related to the Articles of Association including application of Table A are contained within Section 14-16 of the Companies Act 1862 (UK). Section 15 specifically states the Articles are not mandatory in application, but will be deemed to apply where the Memorandum of Association does not contain the Articles of Association that either exclude or modify requirements listed in Table A.

expenditure and of the credits and liabilities of the company. Paragraph 79 to 81 required for the income and expenditure statement and balance sheet to be presented before the company at a general meeting at least once per year. The 1862 Act also included specific financial accountability provisions for limited banks under section 44, whereby banks were to provide bi-annual accounts in prescribed form of assets and liabilities.

2.2.2 Scotland

Scotland's first bank, the Bank of Scotland was established by an Act of Parliament for Erecting a Bank in Scotland 1695 (Scotland). The banks' primary objective was to support the needs of commerce with the Act prohibiting lending to the government without specific approval. From inception, the Bank of Scotland was granted a monopoly in public banking for 21 years. Scotland did not fall under the monopoly of the Bank of England and the six-partner rule despite being part of the Union of Parliaments of 1707. Any number of individuals could set up as a banking entity and issue notes (Checkland, 1975). The system of branch banking was successfully established in Scotland since the 1770's. "Proper" joint stock banking introduced in 1810 supposedly helped Scotland's economy by promoting safe and stable banking operations (Newton & Cottrell, 1998, p.116; Shearer, 2005). Indeed, banking institutions of Ireland and later England based their systems of joint stock banking on the successful Scottish model (Munn, 1988). The Scottish system of banking evolved into a three-tiered system by the 1820's (Cappie, 1993). The first tier comprised the public banks, which operated as chartered companies with liability of shareholders limited to the value of shares held (Capie, 1993). Along with the Bank of Scotland, the other two public banks in Scotland were the Royal Bank of Scotland (established 1727) and The British Linen Company (established 1756) (Capie, 1993).

The second-tier banks were private banks aligned with English West-end banks and the third tier of banks were provincial banking companies, similar to England's country partnership banks although not restricted to the six-partner form (Munn, 1988). Deemed a foundation of the Scottish banking system, nearly all banks issued notes with a minimum note issue of one pound legislated under the Bank Notes (Scotland) Act 1765. When the UK sought to

restrict note issues of less than five pounds in 1826 due to a large number of bank failures in England, Scottish banks opposed the move, ultimately winning exemption from the Act (Munn, 1988). The reign of Scottish banking effectively ended in 1845 with the Bank Notes (Scotland) Act 1845, which imposed restrictions on private note issue and shut down free entry. It is stated that "this Act brought the banking system of Scotland formally under the control of the Bank of England" (Kroszner, 1995, p.5). Notably the Bank Notes (Scotland) Act 1845 bought about additional accountability requirements. Section 7 required banks issuing notes to submit accounts in prescribed form on a weekly basis to the Commissioners. Accounts were to detail the amount of bank notes in circulation as well as the amount of gold and silver held by the bank. Averages of the preceding four-week period were also to be included. Under section 9, the commissioners were to make out a monthly account of the four-week averages and publish in the London Gazette. The practice of publishing formal balance sheets prior to 1865 was limited (Checkland, 1975).

2.2.3 Ireland

Small, private banks existed in Ireland from the end of the seventeenth century (McGowen, 1988). An Act of Parliament in 1756 restricted the number of partners of the banks to six and prevented any partner from dealing in trade. These restrictions were said to prohibit the growth of the Irish banking sector (McGowen, 1988). The need for a national bank that could stimulate the economy led to the Irish Parliament establishing The Bank of Ireland in 1781 by the Bank of Ireland Act 1781. However, the Charter of the Bank of Ireland arose in 1783, when the bank commenced business. The Bank of Ireland operated under a constitution and administration that emulated the Bank of England (Gilbert, 1836). The Bank of Ireland maintained a privileged position with instituting legislation continuing the six-partner restriction on other banking bodies. The six-partner rule was thought to have rendered the banks vulnerable to the personal financial wellbeing of a small number of partners. Weaknesses in the partnership form were evident when in 1820, 16 of the 31 private Irish banks failed or were suspended (Hickson & Turner, 2005). The Bank of Ireland Restriction Act 1821 came about as a response to the 1820 banking crisis. The Act allowed any number of partners to carry out the

business of banking and issue notes on the condition they operated outside fifty miles (65 statutory miles) of Dublin. Notably under the Bank of Ireland Act 1821, all partners had to reside in Ireland and any legal action of the bank still had to be conducted under all partners' names. However, provisions remaining from the 1756 Act meant the Bank of Ireland Act 1821 could not facilitate the establishment of joint stock banks.

The Banking Act (Ireland) 1824 and The Banking Copartnerships Regulation (Ireland) Act (1825) removed numerous restrictions on the formation of copartnerships or joint-stock firms. The Ireland banking reforms of 1821 and 1824 served as the basis for The Country Bankers Act 1826 (UK), with application in England and Wales (Collins, 1988). A major contribution of the Acts was to facilitate the system of transferable stock and to liberalise the incorporation form, although with unlimited liability. Banks could now sue in the name of a selected officer and partners were permitted to reside outside of Ireland as long as they were within the UK. Several joint-stock banks formed thereafter, some with a substantial body of shareholders (Hickson & Turner, 2005). Both the Banking Act (Ireland) 1824 and The Banking Copartnerships Regulation (Ireland) Act (1825) prescribed accountable governance in the form of a basic annual return providing an account of the names of public officers and particulars. Following on from the Bank Charter Act 1844 (UK) of England, the Bankers (Ireland) Act 1845 was passed in Ireland to regulate note issues. The Bankers (Ireland) Act 1845 also abolished the remaining special privileges of the Bank of Ireland allowing banks of any number of partners to issue notes throughout Ireland. Under the Bankers (Ireland) Act 1845, issuing banks were required to prepare weekly accounts of notes in circulation and of coin held, and from these prepare averages every four weeks in a prescribed form. These requirements were substantially less than those contained within the Bank Charter Act 1844 (UK). The corporation form in Irish banks lasted over 50 years until in the early 1880's when limited liability was introduced.

2.2.4 United States (US)

The first chartered bank of the US, the Bank of North America was formed in 1791, modelled in part on the Bank of England (Knox et al., 1903). The Bank of North America was required to provide a financial report to the secretary as

required, detailing the condition of the bank (Knox et al, 1903). However, Treasury records do not show any submitted formal reports. The only surviving records showing the condition of the bank were two balance sheets detailing resources and liabilities from 1809 and 1811 (Knox et al, 1903). At the time the charter was granted, the Federalists were in power. By the time the charter renewal was due in 1811 the Republicans had gained control of national finances and had a very different view on national banking (Knox et al, 1903). A national bank was no longer necessary and the charter of the first bank of the United States was terminated (Knox et al, 1903). The need for a national bank was evident during the War of 1812 and a second charter for the Bank of the United States was issued in 1816. Again, the government refused renewal of the charter on its expiry in 1836 (Knox et al, 1903). Other banks within the US were generally established by state charter and regulations on lending and financing could differ significantly even within the same state (Calomiris, 2000). In 1828, the state of New York reformed the practice of issuing individual charters by enacting the General Banking Law 1828 (NY). Regulations within the General Banking Law 1828 (NY) contained requirements for accountability of bank operations including the provision of annual statements of financial conditions to be sent to the bank commissioners, right of inspection by bank commissioners and reports of the bank commissioners to be available to the public.

The banking panic of 1837 led to further reforms in the US banking system with a shift toward free-banking (Calomiris, 2000). The Michigan Act 1837 (MI) was the first of the free-banking legislature to allow automatic chartering of banks without special consideration (Dwyer Jr, 1996). Any number of persons could carry on the business of banking as long as they met the minimum capital requirements (Economopoulos, 1987). The New York Free Bank Act 1838 (NY) affirmed the corporation form of US banks. Whilst Scotland raised the idea of free entry into banking, the American banking system raised the idea of free incorporation (Sylla, 1985). Free incorporation may have had its origins in America and later spread to Scotland and England (Sylla, 1985). Typically, free banking laws were based on the New York Free Bank Act 1838 (NY) which were later amended in 1840 (Rolnick & Weber, 1985). Key provisions contained within free banking laws included the

requirement that free banks deposited designated state bonds with the state banking authority as security for the issue of notes; that free banks paid specie for notes on demand; and that the principles of double liability applied. A major variation between UK and New England banks in the early nineteenth century was the application of limited liability:

> *When the modern concept of the corporation triumphed in American banking, it spread easily and quickly to other sectors of the American economy. Later, in the second half of the nineteenth century, it spread to Great Britain, France, and other nations. (Sylla, 1985, p.106).*

There were also a number of differences in the regulation of financial accountability between the US and English banking sectors. These are demonstrated in Table 3 of Publication 2.

The New York Free Bank Act 1838 (NY) included stringent regulations on bank operations including a number of conditions imposed by the General Banking Law 1828 (NY). The General Banking Law 1828 (NY) applied to free banks from 1846 when the state constitution held that free banks were 'corporations' rather than associations as described by the free banking laws (Economopoulos, 1987). Restrictions imposed on the free banks were more onerous than those required of chartered banks (Economopoulos, 1987). Free banks had to submit bi-annual returns in contrast to chartered banks that produced annual reports. Further reports were to be published in local newspapers, a condition that was not imposed on chartered banks (Economopoulos, 1987).

The US free banking era (1837-1863) was associated with banking panics, instability and failures due to a lack of federal legislation, low barriers to entry, option of banks to issue their own notes and high levels of competition (Dwyer Jr, 1996). The National Bank Act 1864 (US) was an attempt to regain federal control over the US banking system and through it increase tax revenue and demand for government bonds (Hoag, 2015). Despite persuasive actions of Congress to convert state banks to a national charter by taxing state bank note circulations, some state banks declined and rather stopped issuing notes (Hoag, 2015). A dual system of state banks and national chartered banks

remained, with state banks regulated by the state regulator that issued the charter and national banks regulated by the Controller of the Currency (Hoag, 2015). The National Bank Act 1864 (US) required all national banks to submit a quarterly balance sheet to the Controller of the Currency. Concerns on financial statement presentation generated an amendment to the Act in 1869 which allowed the Controller of the Currency to request reports five times a year at dates of choice (Hoag, 2015).

2.2.5 Canada

Table 1 of Publication 2 shows that 62 banking enactments were reviewed in demonstrating the development of regulated financial accountability in Canada up to and including 1862. Until the 1830's, banks of importance in Canada were incorporated by charters (Shearer, 2005). British Authorities ratified incorporation of commercial banks in Canada despite England's own reluctance to progress limited liability in their own banking sector:

> *The officials may well have contrasted the experience of the English unincorporated banks with that of the large, well capatilized chartered banks in Scotland where the stability of the chartered banks was in sharp contrast with the instability of Scottish (as well as English) unincorporated joint stock and private banks (Shearer, 2005, p.4.)*

Charters of the early banks of Upper Canada were based on those granted in the US and also reflected a British heritage (Shearer, 2005). Whilst the issuing of bank charters was not challenged by the imperial government, the content was another matter (Shearer, 2005). The bank charters were basic and fell short of the imperial banking regulations when introduced (Shearer, 2005). Terms included minimal reporting requirements with no prescribed form. Colonial intervention in Canadian banks began with The Mauritius Regulations (1830). The 1830 regulations were based on three key aspects, the real bills principle, double liability of shareholders and provision of half yearly financial accounts. The regulations were forwarded to Canada and provided to the legislature in 1833 (Shearer, 2005). In 1834 the imperial government requested revision of two Canadian bank charters that had received prior

assent (Shearer, 2005). Ultimately the risk of political consequences from rejecting the charters of sizeable banks resulted in the imperial government's remission (Shearer, 2005). Similarly, early bank charters of lower Canada were below imperial standards. Approval was sought from the British treasury and despite the conservative nature of the charters royal assent was given (Shearer, 2005). It was the Scottish system of banking that became central to the Canadian reform agenda with the system introduced into Canada in the mid 1830's via private banks (Shearer, 2005). An Ordinance to Regulate Private Banking 1839 (Canada) was later introduced which did accord with financial accountability requirements outlined in The Mauritius Regulations (1830).

In February 1841 the upper and lower provinces of Canada were united into one, named the new Province of Canada. There were ten banks operating under the jurisdiction of the new Province of Canada (Breckenridge, 1895). The select committee on banking and currency recommended renewal of the charters under the expectation that the charters accord with selected provisions outlined by the imperial government for observance in colonial bank charters (Breckenridge, 1895). The imperial recommendation prohibiting note issues of less than £1 each was ignored (Breckenridge, 1895). Twelve of the imperial banking recommendations were accepted including the requirement of banks to publish statements in a prescribed form of average amounts of the assets and liabilities of the bank either on a half-yearly or yearly basis. The imperial recommendations along with adoption of specific restrictions including the provision of double liability in the case of the failure of the bank, resulted in the renewal of the charters through to 1862 (Breckenridge, 1895).

A bill to establish Freedom of Banking in this Province and for other purposes relative to Banks and Banking was introduced into Canada in 1850. The bill replicated the New York Free Bank Act 1838 (NY), restricting note issues for amounts less than 5 shillings and required half-yearly returns to be submitted to the Inspector General. A year later an amendment to the bill changed the schedule of bank returns to a monthly basis. A bill to establish Freedom of Banking was repealed in 1866 with the passing of the Provincial Note Act 1866 (Canada). Enactment of the Provincial Note Act 1866 (Canada) was directly related to the financial needs of the government (Breckenridge,

1895). The Act induced banks to voluntarily surrender circulation of their own notes for the take up and redemption of provincial notes (Breckenridge, 1895). Whilst the Bank of Montreal accepted this plan, other banks were not as forthcoming (Curtiss, 1948).

The Constitution Act 1867 (UK) bought about the union of the Provinces of Canada, Nova Scotia and New Brunswick. The parliament of the new Dominion was given authority for coinage, currency, bills of exchange, promissory notes, banking, and incorporation of banks (Smith, 2012). The financial stability of the Canadian banking sector progressed between 1867 and 1872 (Smith, 2012). The passage of the Bank Act 1871 (Canada) set the Dominion on a very different path to that of the US (Smith, 2012). In contrast to the US banking sector which was made up of a large number of small banks and bank failures as well as legislative branching restrictions, Canada's banking sector was made up of a few large stable banks with active branching networks. Under the Banks Act 1871 (Canada) banks were required to provide monthly returns and a list of shareholders to the government. The Banks Act 1871 (Canada) was essentially the model for Canadian banking with mostly only minor amendments to the Act through to 1880 (Curtiss, 1948).

2.3 Rise of the WA Banks and Banking Legislation

Table 1, Publication 3 highlights the timeline of key events in WA, commencing in 1828 when the British government first approved colonisation under Lieutenant Governor Captain James Stirling. Financial accountability was an immediate priority in the colony of WA with the appointment of Peter Broun as the Colonial Secretary (and acting Treasurer) in 1829 (Uren, 1966). With responsibility for public funds, Broun introduced a make-shift banking service within the colony (Uren, 1966). Accountability expectations expanded from 1832 with the appointment of John Lewis as Colonial Treasurer, to oversee colonial revenue and expenditure (Bunn & Gilchrist, 2013). The British Sterling Silver Currency Act 1825 (UK) had already been introduced into the Australian colonies introducing the British pound as the primary currency. This paved the way for meaningful presentation of financial statements as a uniform monetary valuation of account.

Banking facilities were a priority for settlers from early colonisation, however, the size of the colony failed to attract overseas banking investment. The determination of settlers to succeed resulted in colonial households providing funds for WA's first bank in 1837, the Bank of Western Australia (Statham, 1981). The establishment of the bank was welcomed at a time when capital was scarce and economic growth was limited. It was seen by the colonists as a means to promote stability and confidence in commercial transactions, both local and foreign, and provided a more permanent standard of value of assets such as land, houses, improvements and other property ("The Bank of Western Australia", 1837). Founders of the bank immediately applied to the local government to establish banking legislation to govern its operations (Medcalf, 1967). The Banks Act 1837 (WA) imposed a form of legal and financial accountability to regulate the establishment of banking businesses in the colony of WA.

Section 13 of the Banks Act 1837 (WA) was the key provision imposing a form of legal financial accountability on the operations of banks. It provided that all persons and companies carrying on the business of banking and making and issuing promissory notes keep weekly account records of the average amount of notes in circulation and of deposits. From those weekly accounts quarterly accounts were to be prepared and lodged with the colonial office. Section 2 of the Act required a return to be made out annually containing particulars of public officers and members in the banking company and section 5 required the inclusion of details in the quarterly returns of new officers or members and those that had ceased to be officers or members. There was no requirement within the Banks Act 1837 (WA) for publication of results, although the Bank of Western Australia did so voluntarily (Butlin, 1968).

A rise in speculative activities in 1839 within the colony of WA was encouraged and facilitated by merchants who continued to offer credit to settlers. Development was further enhanced at this time by the banking sector. In order to gain a foothold in the WA banking sector, the Bank of Australasia merged with the Bank of Western Australia in 1840 (Butlin, 1968). Several shareholders objected to the payment of dividends to overseas shareholders, resulting in the formation of the Western Australian Bank in 1841 (Butlin, 1961;

Statham, 1981). Competition between the two banks resulted in the decline of interest rates and increased demand in loans (Statham, 1981)

The Colonial Bank Regulations were circulated throughout the Australian colonies in 1840. The regulations were made up of a number of rules and conditions to be applied within charters or legislation for incorporating banking companies (Butlin, 1968). Whilst disclosure rules received little opposition amongst colonial banks, bankers in WA were less accepting of the requirement for publication, refuting a bill modelled on the Bank Liabilities Publication Act 1840 (NSW) ("Legislative Council", 1842). At the time only two banks existed in the colony, the Western Australian Bank and the Bank of Australasia. The latter being a chartered bank and therefore it was argued that in contrast to the Western Australian Bank, they would not be obligated to publish under the proposed Act ("Legislative Council", 1842). The 1840 Colonial Bank Regulations were revised in 1846 with the addition of incorporation (for a definite period not exceeding 21 years) and limit on note issue so as to not exceed the value of paid-up capital (Butlin, 1968). On this occasion it was impressed upon governors the requirement to act and procure the regulations within legislature for the incorporation of banking companies. Whilst action was not particularly forthcoming, the WA Governor secured an improved statistical return from the Western Australian Bank with liabilities split between interest-bearing and non-interest bearing deposits and the addition of assets including cash, bills, cash credits and premises (Butlin, 1968).

The recession in the colony of WA between 1843 and 1844 impacted the banking sector. Despite signs of recovery by the end of 1844, directors of the Bank of Australasia announced in mid-1845 its imminent closure (Butlin, 1968). Several other banks including the Government Savings Bank, Perth Building Society, Post Office Savings Bank and the National Bank of Australasia commenced operations in WA between the period when convict transportation began in 1850 and then ended in 1868 (Moore, 1989; Gregory & Gothard, 2009).

Expansion of regulated financial accountability in the form of general companies' legislation did not follow in the colony of WA until 1858 on assent of the Joint Stock Companies Ordinance 1858 (WA). The Ordinance represented the first major form of companies legislation in the colony of WA

providing for incorporation of companies with the option of limited liability. Indeed, section 2 of The Ordinance specifically excluded “persons associated together for the purpose of banking”. Despite this, a number of banks operating in the colony of WA were included on the Joint Stock Companies Register in what appears to be a default of the passage of individual Acts. Both banks were deemed joint stock banking companies under individual Acts. For the National Bank of Australasia, an ordinance titled the National Bank of Australasia 1866 (WA) and for the Western Australian Bank, An Act to incorporate the Shareholders of The Western Australian Bank, and for other purposes 1879 (WA). The next significant accountability enactment in the colony of WA was not until 1893 with the passage of the Companies Bill (WA).

3 METHODOLOGY

Consistent with methodologies of historiography identified by Previts., et al (1990a), this study uses a longitudinal case method approach combined with three methods of inquiry. The study focused on the time period in WA from 1837 to 1880, but also considered earlier international influences. Commencing in 1825 narrative inquiry methods explored Hansard and Mirror of Parliament transcripts surrounding the financial crises (1825-6 and 1836-7) in England to elicit political responses and influence on financial accountability. Secondly, comparative legal analysis was also used to examine financial reforms and accountability across US, Canadian and UK enactments in the context of the Companies Act 1862 (UK). A total of 503 enactments were explored. Thirdly textual analysis was applied to a sample of three WA banks. The Bank of Western Australia and the Western Australian Bank were selected for analysis as they represent the first two banks established in the colony of WA. The National Bank of Australasia was the third bank selected for analysis as the bank commenced operations in 1866 after the assent of The Joint Stock Companies Ordinance 1858 (WA) which is considered an important intervening event within the time span. The next section provides more detail on the methods employed.

3.1 Nature of inquiry

As outlined in Table 1, the study was conducted over three phases with the approach comprising narrative analysis, comparative legal analysis and textual analysis.

Table 1: Methodological Framework

	Publication 1	Publication 2	Publication 3
Nature of inquiry	Narrative	Comparative	Textual
Archival materials	Parliamentary archives	Legislation of England, Scotland, Ireland, United States, Canada, Western Australia	Financial Statements
Aim	Sense of accountability	Comparison of financial reforms and accompanying accountability across overseas banking enactments	Patterns of accountability / compliance with WA enactments

3.1.1 International concepts of accountability (Narrative analysis)

Narrative history represents a mode of storytelling (Duff & Bell, 2002). The researcher assumes a connection between past and future events and provides an explanation of the phenomena by reconstructing the story (Previts, et al., 1990b). The role of explanation is to extract trends, causal factors, implications and provide an understanding of the historical event. It may be underpinned by a "purely narrative historical account" or by "rational evidence-based explanations of observed events" (Parker, 1997, p.138). The first, presents a seamless account of the event whereby the questions and relationships addressed are inferred within the narrative. The latter constructs the narrative in response to specific questions, and in doing so illuminates the course of change and contributing factors which resulted in the observed event (Parker, 1997).

Limitations of narrative history emphasise validity and reliability of research output (Parker, 1997). Threats to narrative research highlight the potential for differences in the individuals experienced meaning and the story told, and differences in the interpretation of those meanings by others (Polkinghorne, 2007). The problem of validity and reliability may be overcome with the strength and cogency of the evidence-based research whereby the researcher presents a persuasive argument to gain acceptance of interpretations derived (Polkinghorne, 2007). The narrative process generally begins with the collection of evidence, followed by the analysis or interpretation of that evidence with the researcher evolving back and forth through these

steps until sufficient evidence is gathered to support knowledge claims (Polkinghorne, 2007).

Publication 1 employed a “rational evidence-based approach” (Parker, 1997) to narrative history to provide a sense of accountability by appraising the effect of the 1825-6 and 1836-7 English banking crisis on regulated banking financial accountability in Britain between 1825 and 1845. The period commences just prior to British colonisation of WA and covers the date of formation of the colonies first bank and corresponding legislation in 1837 as well as related amendments in 1841. Key British banking Acts were identified from within the 20-year period succeeding the 1825-6 English banking crisis. Each enactment was reviewed for the inclusion of financial accountability provisions. Selection of banking enactments was based on the extant literature formerly identifying these enactments as having an important bearing on the development of the English banking system (Barnes & Newton, 2017; Collins, 1984; Horsefield, 1944; Jones & Aiken, 1994; Neal, 1998). These enactments were obtained using the Justis legal database.

This was followed by a review of parliament debates and committee reports accessed via a search of the UK Hansard parliament archives, the Mirror of Parliament and HathiTrust Digital Library. Records were reviewed to identify those that included information on the relevant banking Acts as well as mandates of financial accountability. The records along with the banking Acts, provided for the explanation on progression of regulated financial accountability across the period examined. The records were also examined to verify the individual influence of key political leaders to mandates of financial accountability. The same transcripts were reviewed to examine the existence of the principles of laissez-faire or state intervention. Interpretation was based on the degree of disclosure introduced, timeliness of reporting, distribution and publicity obligations. These financial accountability aspects were present in both France and the US at this time and are therefore used as a guide in the assessment of laissez-faire economics in Britain during the same period (HC Deb 20 February 1826 and HC Deb 12 May 1836).

3.1.2 Instruments of accountability (Comparative legal analysis)

The second phase of the study applied comparative legal analysis. The comparison of legal banking institutions and legislative enactments between England, the US and Canada forms an integral component of this study and Publication 2. Comparative legal analysis allows for the comparison of banking enactments across countries to identify similarities and differences (Nelken & Orücü, 2007). Whilst legal origins are a key consideration of the comparative analysis of legal banking institutions between Britain and WA, the study also seeks to understand the relationship between legislative instruments of England with US and Canadian legal banking instruments. The interaction between England, Scotland and Ireland is also considered within the literature review of this phase of the study.

The sample as detailed in Table 1, Publication 2 includes 503 legislative banking enactments from England, the US and Canada from across the eighteenth and nineteenth century. Only those Acts containing financial accountability provisions were included within this sample. Both federal (26) and state-based legislation (477) are included, with a majority of the US Acts making up the state-based sample. English Acts existed only at the federal level. Despite the difference, both state-based and country-wide legislation contributed evidence on financial accountability to address the research question. US banking legislation was obtained using the HeinOnline Session Laws Library. Canadian banking legislation came from the HeinOnline Acts of the Parliament of Canada (Annual Statutes) database, and English banking legislation was obtained from the Justis legal database. Newspaper sources including the Patriot (Toronto publication), Sydney Gazette and New South Wales Advertiser provided access to the British Colonial Banking Regulations. Parliamentary debates and committee reports were obtained from the UK Hansard Records and HathiTrust Digital Library.

Paragraphs 78 to 82 the First Schedule (see Table 2, Publication 2), Companies Act 1862 (UK) was selected as the foundation for the comparative legal analysis. The consolidating companies Act was a historic piece of legislation for the UK bringing banking, insurance and other companies together into one defining enactment.

> *The 1862 Companies Act was a consolidation of existing pieces of legislation and it was the progenitor of all future Companies Acts in the UK. The 1862 Act marks the final step in the centuries-long evolution of the corporate form in the UK. (Turner, 2017, p.20).*

Comparative legal analysis allowed for the process of comparing the sampled banking Acts in order to identify those Acts of England, the US and Canada which may have informed paragraphs 78 to 82 of the First Schedule, Companies Act 1862 (UK). Mapping was completed to identify similarities and differences between the financial accountability provisions in all 503 of the banking Acts sampled to those contained within paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK).

3.1.3 Patterns of accountability and compliance (Textual analysis)

The study as illustrated in Publication 3, draws on textual analysis to determine what practices of financial accountability occurred in early WA Banks. Textual analysis reviews patterns of accountability in financial statement presentation of early WA banks and assesses reporting compliance of early WA banks with local enactments. In contrast to quantitative textual analysis directed toward calculative content analysis (Lougran & McDonald, 2016), interpretative textual analysis searches for patterns, meanings and themes within the documents to unravel complex understandings through qualitative techniques (Gephart, 1997). As with narrative analysis, limitations of the approach address validity and similarly these may be overcome with the strength and cogency of the evidence-based research (Polkinghorne, 2007). This approach allows for comparison of the sampled bank returns to attributes of Peng and Brown's (2016) alternative reporting models of account. The typology of alternative reporting models recognises that alternative forms of accountability may exist across a broad spectrum of reporting models including a Traditional reporting model based on indigenous accounting systems, a Narrow reporting model based on more technical accounting systems and a Western-broad reporting model based on civic-based practices (Peng & Brown, 2015). A review of reporting compliance between 1837 and 1880 compares sampled returns of

the Western Australian Bank and Bank of Western Australia to section 13 of the Banks Act 1837 (WA) and for the National Bank of Australasia, Schedule B of its own Ordinance, National Bank of Australasia 1866 (WA).

4 SUMMARY OF PUBLICATIONS

This section provides a summary of the contribution of each publication to the overarching research question whilst the complete publications are included at Chapter 7.

4.1 Publication 1

Published peer reviewed manuscript

Game, C. S., Cullen, L. M., & Brown, A. M. (2020). The rise of financial accountability in British joint stock banks: 1825 to 1845. Financial History Review, 27(2), 234-255. https://doi.org/10.1017/S0968565020000086

Publication Abstract

This study explores parliamentary reforms related to the financial accountability of banks following the 1825-6 and 1836-7 financial crises in England. An appraisal of nineteenth-century parliamentary Hansard transcripts reveals early banking legislative pursuits. The study observes the laissez-faire and interventionist approaches towards the banking enactments of 1826, 1833 and 1844 that underpin the transformation of financial accountability during this era. The Bank Notes Act 1826 imposed financial accountability on the Bank of England by requiring the mandatory disclosure of notes issued. The Bank Notes Act 1833 extended this requirement to all other banks. The Bank Charter Act 1833 increased the financial accountability of the Bank of England by requiring it to provide an account of bullion and securities belonging to the governor and company, as well as deposits held by the bank. Thereafter, the Joint Stock Banks Act 1844 pioneered the regular publication of assets and liabilities and communication of the balance sheet and profit and loss account to shareholders. State intervention in the financial accountability of banks during the period from 1825 to 1845 appears to have been cumulative. (Game et al., 2020, p.234)

Approach

The English financial crises of 1825-6 and 1836-7 are used as the basis for a discussion on the progression of regulated financial accountability in British

banks up to and including 1845. Records were reviewed via Hansard, Mirror of Parliament and the HathiTrust Digital Library to identify key legislative pursuits of the British parliament. Furthermore, an analysis was made of transcripts to determine the conflicts arising between the laissez-faire and interventionist approaches which were widely discussed in the era examined.

Findings

Financial crises was certainly a key reason for raising formal expectations of financial accountability in British Banks. However, initial responses by the British parliament were deemed laissez-faire due to the limited focus on note issues and reluctance to mandate further financial accountability. The lack of parliamentary action on financial accountability was raised as a key point within a secret committee report of 1836. Despite this, it was not until 1844 that recommendations of the 1836 committee report were introduced with the requirement for an account of assets and liabilities to be published monthly and the provision of a balance sheet and profit and loss to be provided to stakeholders each year. Results highlight a cumulative response by government whereby, reforms were initially minimal and progressed slowly through to 1844 when the British parliament imposed extensive regulatory control over the financial accountability practices of British banks.

Contribution

The manuscript provides a sense of accountability in that it delivers the story surrounding the development of regulated banking financial accountability in Britain between 1825 and 1845. Whilst the extant historical literature has focused on causal impacts of political and social influences to address specific parliamentary reforms, little attention has been given to parliamentary reforms targeting financial accountability post the 1825-6 and 1836-7 English financial crises. The publication also adds to the extant historical literature by providing an assessment on the principles of laissez-faire and interventionist approaches specific to financial accountability developments in British banks.

4.2 Publication 2

Published peer reviewed journal article

Game, C. S., Cullen, L. M., & Brown, A. M. (2020). Origins resting behind banking financial accountability of paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK). Business History, 1-25. https://doi.org/10.1080/00076791.2020.1718109

Publication Abstract

Applying tenets of legal origin theory, this paper traces the origins of banking financial accountability resting behind paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK), where the timely disclosure of a balance sheet and statement of income and expenditure to stakeholders are scrutinised. Comparative legal analysis of 503 banking enactments of the US, Canada and England during the eighteenth and nineteenth century reveals that expectations of formal accounts raised by the Companies Act 1862 (UK) were informed by the Colombia Banking Act 1817 (CO) in the US, the Canadian Mauritius Regulations 1830 and the Joint Stock Banks Act 1844 (UK). (Game et al., 2020, p.1)

Approach

A literature review provides an overview of the developments in financial accountability of the banking sector throughout the US, Canada and England[2] (incorporating a discussion on Scotland and Ireland). The study then applies comparative legal analysis to assess mandates of financial accountability across 503 banking enactments of the eighteenth and nineteenth century from the US, Canada and England. The Companies Act 1862 (UK) represented a significant milestone in consolidating companies' legislation and accountability requirements throughout the UK[3]. This legislative enactment was therefore selected as the basis of comparison of selected banking enactments sampled to determine potential enactments transnational that may have informed British

[2] England as an independent country.
[3] UK representing the group of countries making up the island nation during the nineteenth century (including England, Scotland and Ireland).

financial accountability practices. The traditional premise of legal origin theory is expanded to consider the possibility of a reciprocal transfer of legislative ideas between former colonies and coloniser.

Findings

Results suggest that expectations of financial accountability raised in the First Schedule, Companies Act 1862 (UK) were informed by external sources such as from the US, Canada, in addition to local sources of England. Some US enactments covered aspects of paragraphs 78 to 82 of the Companies Act 1862 (UK) a number of years in advance of England and Canada. This was particularly evident with the statement of income and expenditure whereby some US enactments addressed these provisions (paragraph 79 and 80) some 50 years prior to England. Similarly, some US enactments addressed financial accountability provisions in the Balance Sheet (paragraph 81 and 82) 30 years in advance of England and Canada.

Contribution

The publication addresses the regulatory sources that informed key financial accountability provisions in the UK and hence addresses the research aim in relation to the indirect origins of financial accountability provisions that may have informed early banking legislation in WA. Furthermore, the publication expands upon the basic concept of legal origin theory by incorporating the notion of a reciprocal transfer of legislative ideas between former colonies and coloniser.

4.3 Publication 3

Published peer reviewed journal article

Game, C. S., Cullen, L. M., & Brown, A. M. (2018). Accountability and financial statement presentation of early Western Australian banks, 1837–1880. Accounting History, 23(4), 555-574.
https://doi.org/10.1177/1032373218759972

Publication Abstract

This study uses legal origin theory to consider the influence of the British imperial government on financial statement presentation of early Western Australian banks. Accountability and patterns of financial presentation were explored through an examination of 192 quarterly returns and three annual returns for the Bank of Western Australia, Western Australian Bank and National Bank of Australia over the years 1837–1880. Findings from the study suggest the banks demonstrated a willingness to prepare forms of Western-narrow and Western-broad accounts. Early Western Australian banks consistently prepared timely financial statements to keep stakeholders informed of the banks' quarterly returns. Despite the harsh economic conditions, Western Australian banks appeared to keep pace with the changing legal, political and fiscal accountability reforms carried out by the colonial government during this early settlement period of Western Australia. (Game et al., 2018, p.555)

Approach

This paper seeks to address the research question "What patterns of accountability were evident in the early financial statements of WA banks from 1837 to 1880?" Underpinned by legal origin theory, the study applied Peng and Brown's (2016) alternative reporting models to assess patterns of accountability in the financial statement presentation of early WA banks. Three banks were selected for analysis including the Bank of Western Australia, the Western Australian Bank and the National Bank of Australasia. Textual analysis allowed for comparison of a sample of bank returns from each of the three banks to Peng and Brown's (2016) alternative reporting model

classifications of traditional, western-narrow and western-broad from. In addition, the study incorporated a compliance assessment of the three banks sampled to mandates of financial accountability in existence during the timeframe.

Findings

Aligned with legal origins theory, early banking legislation in WA were linked to transplants from Britain. The Banks Act 1837 (WA) was based on The Country Bankers Act 1826 (UK). Section 13 of the Banks Act 1837 (WA) detailed financial accountability provisions to be applied by WA banks. This clause appears similar to terms outlined in section 8 of The Bank of England Act 1833 (UK). The colonial banking regulations of 1840 (amended in 1846) also provided guidance to regulators throughout the Australian colonies. A rise in financial accountability requirements was included in the individual Ordinance of 1866 of the National Bank of Australasia. All three of the WA banks sampled fulfilled their requirements of regulated financial accountability during the period under the review. Patterns of accountability aligned with both the Western-narrow and Western-broad reporting models. The Western-narrow reporting model was evident via The Banks Act 1837 (WA) which was primarily informed by The Country Bankers Act 1826 (UK) and The Bank of England Act 1833 (UK). The Banks Act 1837 (WA) detailed accountability requirements such as the preparation of an annual return of public officers and partners, the provision of weekly accounts to detail notes in circulation and the amount of deposits to be maintained. Lodgement of quarterly returns was also required and needed to stipulate amendments to public officers or partners. Western-broad reporting was demonstrated by colonial banks in WA through publication of accounts despite there being no publication mandate in the Banks Act 1837 (WA). However, it was a suggestion of the British Colonial Banking Regulations 1840 (Amended 1846). The Traditional reporting model was not categorically demonstrated in the period sampled.

Contribution

The publication adds to the narrative on banking history in Australia by detailing the development of regulated financial accountability in WA. In line with legal origin theory, legislative accountability practices of early WA banks are linked to British influences. Through the lens of Peng and Brown's (2016) alternative model of account, patterns of financial accountability in early WA banks are identified, as well as the banks compliance with applicable banking enactments assessed.

5 CONCLUSION AND FUTURE RESEARCH

The overarching research question '*What evidence of accountability in the financial reports of early Western Australian banks (1837–1890) was informed by English, Scottish, Irish, United States and Canadian institutional and legislative initiatives?'* has been addressed by the publications as detailed within this Exegesis.

Publication 1 explored the mindset of the parliamentarians involved in the financial accountability reforms of British joint stock banks between 1825 and 1845. WA's first banking legislation was introduced in 1837 and referred to key British legislation in force at the time. Further amendments to the Banks Act 1837 (WA) followed in 1839 and 1841. The study highlights the impact of the English financial crises of 1825-6 and 1836-7 in driving banking reform. Initial reforms in Britain were deemed laissez-faire, focussed on the restriction and reporting of note issues. Mandates on financial accountability at this early point were limited and this was raised by a secret committee in 1836. Financial accountability requirements increased in 1833 and again in 1844 with select parliamentarians driving the reforms. Findings showed that state intervention was cumulative across the period. Whilst mandates of banking financial accountability were initially laissez-faire, they increased over time until when in 1844 the British government exercised expansive control.

Publication 2 focused on the indirect origins of regulated financial accountability in early WA banks by examining the *external jurisdictions* that may have informed English banking legislation. To address this requirement, the study refers to the financial accountability clauses contained in the Companies Act 1862 (UK) as the basis of a comparative legal analysis on the development of regulated financial accountability in banks between England, Canada and the United States. Findings suggest that financial accountability terms included in the Companies Act 1862 (UK) may have been informed by legislative sources such as from the US, Canada and England. In view of the principles of legal origin theory, findings also suggest a reciprocal transfer of legislative ideas between former colonies and coloniser.

Publication 3 identified direct legal transplants of banking accountability from Britain to WA. The Banks Act 1837 (WA) was informed by The Country Bankers Act 1826 (UK) and The Bank of England Act 1833 (UK). The Joint

Stock Companies Ordinance 1858 (WA) was based on the Joint Stock Companies Act 1856 (UK). These transplants reflect practice linked to western-narrow reporting. WA banks sampled complied with the requirements of financial accountability mandated within these Acts. However, in line with western-broad reporting findings also showed that early WA banks demonstrated a willingness to provide voluntary information above what was legislated. Publication of financial reports was seen as entirely voluntary at the time. There was no publication mandate in either the Banks Act 1837 (WA) or the Joint Stock Companies Ordinance 1858 (WA). Whilst the timely publication of financial information was an expectation of the British Colonial Banking Regulations 1840 (amended 1846), it was not mandated. No evidence of financial accounts aligned to the traditional alternative reporting model was found during the study.

This Thesis by Compilation has added to the extant historical literature on the development of regulated financial accountability in Australia by addressing the subject specific to the early WA banking sector. The exploration undertaken around the development of regulated financial accountability in Colonial WA has highlighted both *direct* and *indirect* origins of financial accountability practice. In addressing the indirect origins, this thesis has also provided a significant contribution by expanding on the premise of legal origin theory through its consideration of the reciprocal exchange of legislative ideas between former colonies and coloniser.

In terms of the research aims, Publication 1 addressed the aim to provide a sense of accountability through its review of parliamentary records and committee reports that provided a background analysis of the reasons behind mandates of financial accountability in British banks. This was important as the publications show that regulated financial accountability clauses in early WA banks were directly informed by British legislation. Publication 2 addressed the aim of expanding on the basic concept of legal origin theory to explore the potential for an integrated exchange of legislative ideas between former colonies and coloniser. Publication 2 also covered the comparative legal analysis of legislative instruments across the UK, US and Canada that may have informed financial accountability of early WA banks. Furthermore, the publications combined highlight the transformation of

banking financial accountability in England, Scotland, Ireland (the UK), the US and Canada throughout the period under review. Lastly, Publication 3 addressed the research aim that covered patterns of accountability of early WA banks and compliance practices of early WA banks with local banking enactments.

There are limitations to the study. Publication 1 was based on historical parliamentary records from Hansard and the Mirror of Parliament. Whilst Hansard records were readily available via an online platform, access to Mirror of Parliament records had limited access online with hardcopy access restricted to the East Coast of Australia. We would have liked to have been able to view all available records for comparison to those contained in Hansard. The analysis of Publication 2 is limited to the jurisdictions it includes being England (Scotland and Ireland), Canada and the United States. It is acknowledged that other jurisdictions may have also informed English banking practice and/or vice versa. The study did not seek to review reasons why Canada and/or the United States adopted some mandates of financial accountability in advance of England. Publication 3 was limited by the availability of the historical financial accounts stored in State Records. The records we were able to obtain are outlined within the methods section of Publication 3. Notably, some records were incorporated into the study via a secondary source, Butlin's (1968) analysis of WA's banking statistics.

Several areas for future research have been identified as a result of this thesis. Whilst this thesis has focused on the development of regulated financial accountability during the 19th century, Publication 1 identified that future research could explore audit in a similar manner and perhaps look to address the impact of audit developments on regulation in the banking sector as well as on financial accountability. Publication 2 identified a number of possible areas where the research could be expanded. The US was identified as early innovators in regulating financial accountability practice. It may be useful to research early financial accountability practices of the US further, including exploring the reasons behind these mandates and/or compliance of banks with early mandates of financial accountability. A further comparison between England, the US and Canada could analyse the uptake of financial accountability provisions of the Companies Act 1862 (UK) and look at the

adoption of the provisions over time to identify if banks progressively changed. With parliamentary transcripts pointing toward potential causality of banking legislation between the UK, US and Canadian banking laws, future research may investigate this link further. In regard to Publication 3, further research might provide a comparison of banking regulation and patterns of accountability between WA and South Australia. These two colonies were the only two established as non-penal settlements in Australia. Future research might also consider a comparative study between penal and non-penal settlements in the same regard within Australia. To add richness to our understanding of regulation and accountability of the 19th century, future research could consider the regulation and accountability of 19th century non-banking financial institutions.

In conclusion it is prudent to acknowledge a published comment regarding Publication 2. Pearson (2020) highlighted that Publication 2 addressed only part of the story on the development of financial accountability of British banks by focusing solely on the *regulatory* environment. Publication 2 does indeed have the primary focus of comparing the regulatory environments of England, Canada and the US, as the purpose of the research was to discover external *regulatory* sources that may have informed British banking reforms. Publication 2, does also highlight the importance of the existing *non-regulatory* (or voluntary) practice of British organisations in relation to financial accountability. This aspect is well documented in studies by Edwards et al., 1997; Edwards & Webb, 1985; Freeman, Pearson & Taylor, 2012 and Napier, 2010. This thesis sought to expand on the story by introducing the potential for a reciprocal exchange of legislative ideas between former colonies and coloniser. Further research may certainly expand on both applications and investigate the extent that each (external regulatory sources/existing non-regulatory practices) informed British financial accountability practice.

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7 PUBLICATIONS

7.1 Publication 1: *The rise of financial accountability in British joint stock banks: 1825 to 1845*

Game, C. S., Cullen, L. M., & Brown, A. M. (2020). The rise of financial accountability in British joint stock banks: 1825 to 1845. *Financial History Review*, *27*(2), 234-255.

The rise of financial accountability in British joint stock banks: 1825 to 1845

Abstract

This study explores parliamentary reforms related to the financial accountability of banks following the 1825-26 and 1836-37 financial crises in England. An appraisal of nineteenth-century parliamentary Hansard transcripts reveals early banking legislative pursuits. The study observes the laissez-faire and interventionist approaches towards the banking enactments of 1826, 1833 and 1844 that underpin the transformation of financial accountability during this era. The *Bank Notes Act 1826* imposed financial accountability on the Bank of England by requiring the mandatory disclosure of notes issued. The *Bank Notes Act 1833* extended this requirement to all other banks. The *Bank Charter Act 1833* increased the financial accountability of the Bank of England by requiring it to provide an account of bullion and securities belonging to the governor and company, as well as deposits held by the bank. Thereafter, the *Joint Stock Banks Act 1844* pioneered the regular publication of assets and liabilities and communication of the balance sheet and profit and loss account to shareholders. State intervention in the financial accountability of banks during the period from 1825 to 1845 appears to have been cumulative.

Keywords: Banking crisis, financial accountability, intervention, joint stock banks, laissez-faire

JEL classification: N23, N43

I

Nineteenth-century British economic policy was characterised by a commitment to the principles of laissez-faire ideology, which some commentators have argued resulted in the limited development of corporate accounting regulation (Jones and Aiken 1994, p.198). However, scholars such as Parker (1990, p.52) and Morris (1993, p.165) have recognised that select industries – such as banks, financial institutions, public utilities and railways – were subject to varying degrees of regulation associated with the presence of monopoly powers and the importance of safeguarding the privileges of the state. Bank stability was a matter of public and state interest (Parker 1990, p.57; Sánchez-Ballesta and Lloréns 2010, pp.404-405), because banking failures could threaten the financial safety and security of deposits (Lloréns 2004, p.2). Parliament, as a steward of the monetary framework, tightened controls over the banking industry in the second quarter of the nineteenth century. This included intervening in the affairs of the Bank of England, as well as those of private and joint stock banks where the power of issuing notes and extending credit remained with the owners (Parker 1990, p.57).

The Bank of England dominated English banking from its establishment in 1694 (Collins 1988, pp.10-11). The creation of the bank strengthened London's money market and operated to facilitate the finance needs of government. As a commercial bank, the Bank of England enjoyed governmental privileges enacted within its charter (Schooner and Taylor 1999, p.606). The Bank was the only banking institution able to raise capital from a large number of investors. The *Bank of England Act 1697* had reinforced the monopoly of the Bank of England by preventing the setup and operation of any other banking corporation in England (Checkland 1975, p.46). The passage of *The Bank of England Act 1708* had further

sanctioned this monopoly by requiring all other banks in England issuing notes to operate under a six-partner rule with unlimited liability. This created some instability in the banking system by encouraging small-scale banking operations advanced by the partnership form and an absence of specialist bankers (Newton 2007, p.3).

Over a century later, the *Bank of England Act 1819* introduced another form of financial accountability, by requiring the Bank to lay before parliament an annual account of Exchequer and Treasury Bills, as well as any other government securities purchased and advances that had been made to parliament. These financial accountability requirements were minimal, and did little to prevent the bank failures that occurred in England leading to the major financial crisis of 1825-26 (Neal 1998, pp.53-54). The crisis marked the beginning of a major transformation of the banking system in Britain (Collins 1988, p.9). The Bank of England, country bankers and private bankers were part of a system of banking that needed to adapt to meet the needs of industry and commerce (Cottrell and Newton 1999, pp.81-82). In 1826, the government intervened in the banking system and allowed joint stock banks to engage more partners and to access more capital. In terms of joint stock banks:

> It was highlighted that they had a broader and therefore more stable capital base due to their ability to issue shares. They also emphasised that their wealth was not based upon key individuals, family members or merely a few partners, as with the private banks (Newton 2007, p.1).

Despite these concessions, further economic woes were realised in the financial crisis of 1836-37, with the failure of a number of prominent joint stock banks

(Cottrell and Newton 1999, p.83).

Financial crises and scandals have long been associated with advances in regulated accounting disclosures (Lloréns 2004, p.2). The British parliament responded to the financial crises of 1825-26 and 1836-37 with regulatory reforms. This included mandates for financial accountability, defined as the discharge of stewardship responsibilities by banks through the provision of financial information to key stakeholders (Game, Cullen and Brown 2020, p.1). Attention to transparency by banks was gradually sought by parliament in order to bring about stability in banking operations and help enhance banks' reputation amongst stakeholders (Llorens 2004, p.4). Using the official transcripts of parliamentary reports from Hansard, and by undertaking a textual analysis of reports recorded by the Mirror of Parliament, this study provides insight into parliamentary reforms and the growth in the financial accountability of banks following the banking crises of 1825-26 and 1836-37. This approach corresponds with Orzechowski's (2019, pp.181-182) analysis of parliamentary proceedings of free banking and the passage of the *Bank Charter Act 1833*. The research question posed in this study is:

> What developments in the financial accountability of British banks occurred as a result of parliamentary reforms following the financial crises of 1825-26 and 1836-37?

The development of nineteenth-century company accounting legislation in Britain has drawn considerable interest from business historians (Jones and Aiken 1994; Morris 1993; Parker 1990). A number of these scholars have offered explanations for the causal impact of political and social influences in effecting regulatory changes (Brebner 1948; Crouch 1967; Jones and Aiken 1995; Parker 1990; Taylor 1972). However, little attention has been devoted to the parliamentary reforms that

targeted financial accountability in the period following the 1825-26 and 1836-37 financial crises. Even less attention has been devoted to parliamentary debates about the financial accountability of banks, which reveal the conflicts between laissez-faire doctrine and state intervention in practice. As such, this study seeks to assess parliamentary debates on the financial accountability of banks with particular attention to the arguments they reveal regarding laissez-faire principles and state intervention. The contribution of this paper is twofold. First, the study explains the influence of parliamentary reforms on the development of the financial accountability of British banks following the 1825-26 and 1836-37 financial crises. Second, the study articulates how an increasingly interventionist approach to government policy-making heightened the financial accountability of British banks.

The remainder of the manuscript is organised as follows. Section II provides an overview of the history of banking reform in Britain over the period 1825-1845 and the financial crises of 1825-26 and 1836-37. Section III elaborates on the economic philosophies and banking schools of thought in early nineteenth-century Britain. Section IV reveals the findings of the study before section V presents the study's conclusion.

II

Following the end of the Napoleonic wars in 1815 and the resumption of cash payments in 1821, the British economy entered an expansionary phase (Bordo 1998, p.77). A contraction followed by mid-1825, triggered by a drop in collateral values of the stock market and a reduction in note issues by the Bank of England (Neal 1998, p.64). City banks immediately became cautious and, by September 1825, some country banks also faced difficulties (Neal 1998, p.64). The failure of

Wentworth, Chaloner and Co., a major banking house, created panic, causing a run on several other London banks (Tooke and Newmarch 1848, p.335). Shortly after, another major banking house, Pole, Thornton and Co., closed its doors (Tooke and Newmarch 1848, p.336). This encouraged some country banks to procure specie and bank notes from London banks as security against a potential run on their funds (Neal 1998 p.65).

The ensuing liquidity crisis impacted cash reserves, and threatened the convertibility of notes. The public lost trust in the country banks and presented notes *en masse* to exchange for coin or Bank of England notes (Collins 1988, p.17). Unable to meet these demands for cash, many banks closed their doors. Of the 571 commercial banks (figures exclude Ireland and the three chartered banks of Scotland), 105 banks failed during 1825-26 and almost all of the country banks sought assistance from the Bank of England (Turner 2012, p.39). At the peak of the crisis, and to alleviate panic, the Bank of England increased its lending and narrowly averted issues itself regarding the convertibility of notes (Collins 1988, p.17). The Bank of England and private bankers argued that the country banks were responsible for the crisis due to their excessive note issues. On the other hand, it was suggested that the Bank of England was also culpable due to its role in expanding the money supply between 1822 and 1824, and for neglecting to 'offset the monetary expansion occurring elsewhere' (Neal 1998, p.69).

The regulatory reforms of 1826 aimed to bolster the stability of the banking sector. The first reform in March 1826 restricted the circulation of notes in England under five pounds. This measure saw parliament attempting to curb the circulation of small note denominations due to the volatile nature of this type of money supply (Collins 1988, pp.16-17). The second reform in May 1826 diluted the monopoly of

the Bank of England by encouraging the growth of joint stock banks and branch networks. This created an opportunity for dispersed ownership and increased access to capital resources. The 1826 legislative reforms in England took their lead from Scotland (Cottrell and Newton 1999, p.82), where joint stock banks had remained relatively unscathed by the events of 1825-26 (Freeman, Pearson and Taylor 2012, pp.45-46). The uptake of English joint stock banking after 1826 was slow and private banks remained active participants in the money market. This may be attributed, in part, to prevailing uncertainty about 'the duties, rights and privileges of the new corporations', as well as the adverse economic conditions of the time (Collins 1988, p.68).

The Bank of England's monopoly was further eroded in 1833 when legislation removed a 65-mile exclusion zone. This permitted joint stock banks to establish branches within London, albeit without note-issuing rights (Barnes and Newton 2014, p.10). Thereafter, economic conditions strengthened and there was a rapid up-take of joint stock banking in England as well as in Ireland and Scotland (Collins 1988, pp.68-69). In addition to the growth of joint stock companies, the mid-1830s was characterised by a railway boom and the rise of commercial transactions abroad (Capie 2014, p.12; Turner 2012, p.40). However, there was also excessive discounting of questionable securities in this period, most of which were related to Anglo-American trade (Capie 2014, p.12). A decline in railway stock prices in 1836 and 1837 affected both capital and money markets (Turner 2012, p.40). Whilst the structure of joint stock banks made them safer, some of the newly formed joint stock banks did encounter problems. As Chapman has argued,

> The precept of the new joint-stock banks was to serve "safe and profitable" customers; before credit was offered "the most prudential

> inquiries were made regarding the prosperity of giving those occasional advances" and was extended only to "houses considered perfectly entitled to them." But there can be no doubt that the practice was more erratic. The abundance of capital, low interest rates, and the inexperience of the joint-stock banks gave rise to much unsecured credit, most blatantly in Manchester and Liverpool (Chapman 1979, p.59).

The expansion phase ended swiftly with a recession across Britain in the later part of 1836 (Collins 1988, p.69). This triggered, by 1837, the high-profile failures of the recently established Northern and Central Bank and the Agricultural and Commercial Bank of Ireland (Turner 2012, p.40). The failure rate of banks was low. Only five of the 'weaker and riskier banks' failed (Turner 2012, p.40). However, the instability of branch network activities and poor bank management contributed to the crisis (Barnes and Newton 2018, p.459; Collins 1988, p.84). Parliament was aware of these issues, but the failure of the Northern Central Bank heightened their concern (Barnes and Newton 2018, pp.459-460).

A number of parliamentary inquiries were initiated between 1836 and 1840 to review the deficiencies in the British banking system. They investigated various joint stock banks, branch networks, and banks of issue. Legislation followed in 1844 to restrict joint stock banking in England with a return to charter-based incorporation (Barnes and Newton 2014, p.11). Branch networks were discouraged, note issues in England and Wales were limited to what was already in circulation in 1844, and the publication of accounts by joint stock banks was mandated. From this date, the Bank of England was the only bank in England and Wales able to

increase their circulation of notes. Scotland and Ireland passed similar Acts outlining restrictions for the issue of bank notes in 1845 (Collins 1988, p.72).

III

The philosophies of classic Liberalism and Benthamite utilitarianism greatly influenced British economic policy in the first three quarters of the nineteenth century (Taylor 1972, p.13). The government's economic outlook was based upon laissez-faire ideology. The economic works of Adam Smith and the utilitarian ideas of Jeremy Bentham both provided a foundation for laissez-faire principles (Taylor 1972, pp.18, 32). Smith supported individual freedom and frowned upon state intervention, except in the case of foreign threats or to uphold justice (Taylor 1972, p.19). Bentham also supported individual rights and supported legislation that would seek the greatest happiness for the greatest number (Jones and Aiken 1995, pp.65-66). Both Smith and Bentham hold some claim to the establishment of laissez-faire as a theory of legislative action (Taylor 1972, pp.18, 32).

The predominance of laissez-faire policies in nineteenth-century Britain has been challenged by some historians (Taylor 1972, pp.14-17). As a result, several studies have investigated the legislative environment to assess its influence in key policies and statutes (Brebner 1948; Crouch 1967; Jones and Aiken 1995; Parker 1990). Here, particular industries including banks, financial institutions, railways and public utilities stand out as exempt from the wider adherence to laissez-faire principles (Parker 1990, p.52). These industries were all subject to state intervention to varying degrees with regards to the control of 'monopoly, privilege and safety' (Parker 1990, p.51). The 1825-26 and 1836-37 financial crises initiated parliamentary inquiries into the banking industry. This included mandating measures of financial accountability, commencing in 1826 with the full disclosure

of note issues by the Bank of England. The extant literature guided the selection of banking enactments for this study and included those identified as important to the development of early nineteenth-century banking systems in Britain (Barnes and Newton 2018; Collins 1984; Collins 1988; Horsefield 1944; Jones and Aiken 1994; Neal 1998). Table 1 provides a summary of the banking enactments featured within this study.

[INSERT TABLE 1 HERE]

Both classical Liberalist and Benthamite movements aligned to one or more of the political parties within the British parliament (Bullock and Shock 2010, pp.xix-lv). The Whigs and Tories were the two dominant political parties in parliament during this period (Evans 2001, pp.25-26). The Whigs origin lay in constitutional monarchism and supremacy of parliament. They maintained a political stance that aligned with Liberalist ideologies (Evans 2001, pp.7-21). Tories defended conventional institutions including that of the monarchy and were loyal to conservative ideologies including free trade and patriotism (Evans 2001, pp.7-21). The dominance of the two parties continued thereafter with the Conservative Party and Liberal Party. The Conservative Party was founded from the Tory party in the mid-1830s, while the Liberal Party was believed to have first originated after an agreement in 1835 was made between the Whigs, O'Connellite Irish and Radicals to act in union against the Conservatives (Evans, 2001 pp. 35-36).

Several political leaders were instrumental contributing to parliamentary debates that would lead to banking reforms, and more specifically to increased pressure for financial accountability regarding banks. Table 2 lists these key contributors. Parliamentary debates on banking reform were generally shaped by three main schools of thought on monetary policy: the currency school, the banking

school and the free banking school (Orzechowski 2019, p.181). Key topics of debate following the financial crises of 1825-26 and 1836-37 centered on the convertibility of paper notes into specie, economic fluctuations, the banking system and the Bank of England's role in mediating the solidity of this system (Doreftei 2013, p.50). Key proponents of the currency school (including Samuel Jones Loyd, James Ramsey McCulloch and Robert Torrens) believed that note issuers should be required to hold an equivalent value of paper notes and specie (Eltis 2001, p.6; Orzechowski 2019, p.186). Proponents of the banking school (namely Thomas Tooke, James Wilson and John Fullertan) argued against the currency principle (Poovey 2008, p.202). They believed that no principle could control the currency given that bank notes formed only one component of the exchange medium, which also included bills of exchange and deposits. The medium of exchange was less of a focus for the free banking school with anti-monopoly sentiments receiving more support (Orzechowski 2019, p.186; Poovey 2008, p.202). The key proponents of this view were Henry Parnell, Samuel Bailey, Thomas Hodgskin, George Scrope and James Gilbart.

[INSERT TABLE 2 HERE]

A search of British parliamentary debates and committee reports using Hansard's parliamentary records, the Mirror of Parliament and the HathiTrust Digital Library was undertaken. The study identified records that contained reference to both the selected banking enactments and financial accountability provisions. These records, in combination with the legislative acts, form the basis of our argument about the development of the financial accountability of banks

during the period under review. The parliamentary debates and committee reports were further analysed to determine the individual contribution of arguments provided by political leaders to resolutions on financial accountability. Transcripts were used to identify references to laissez-faire principles or calls for state intervention. Table 3 provides a summary of financial accountability provisions, including the extent of disclosure introduced, timeliness of reporting as well as dissemination and publicity requirements. The study identified these concepts of financial accountability in the analysis of banking regulations between 1825 and 1845. The item 'notes in circulation' has a separate line item due to its importance to banking stability in the nineteenth century. As highlighted in Table 3, note disclosures, introduced in 1826, were subject to timely presentation and publication requirements. Various mandates expanded across the time period to include prescribed forms of presentation, a full balance sheet and profit and loss account.

[INSERT TABLE 3 HERE]

IV

The passage of the *Bank Notes Act 1826* (22 March 1826) was instigated by the British government in reaction to the 1825-26 banking crisis. The Chancellor of Exchequer (Hon. Frederick John Robinson), deliberating on the excessive note issues by country bankers, raised concerns about the insecurities of circulating one and two pound notes (HC Deb 10 February 1826). The primary purpose of the *Bank Notes Act 1826* was to ban note issues in England for any sum of less than five pounds.

Maberly, in taking an interventionist stance during a Commons debate on the *Bank Notes Bill*, raised an amendment to mandate a basic form of financial accountability on the Bank of England. The proposal suggested that the Bank of England publish a monthly account of all bank notes issued during the preceding month, as well as an account of all notes in circulation at that time (HC Deb 20 February 1826). Maberly praised the benefits of publicity, arguing that it would provide a check on the proceedings of the bank (HC Deb 20 February 1826). The United States and France were already adopting such measures and trading on the assurance it provided to the public about the soundness of bank operations. In Maberly's address to the House, he stated:

> *Why it was no more, nor so much as the Bank of France had always done. That Bank published an account of its issue of notes, and of gold, the extent of its discounts, and the amount of its profits; in short, it laid every part of its concerns fearlessly open to the inspection of the whole kingdom. And he was quite sure, that, by adopting a similar course, the Bank of England itself would be safer; the public, beyond all question, safer (HC Deb 20 February 1826, col.578).*

Hume raised a similar recommendation to Maberly, although he believed the monthly account of circulation should extend beyond the Bank of England to include all other banks (HC Deb 27 February 1826). Hume argued for intervention in the regulation of banking financial accountability, citing evidence from the American banking system, where the chartered banks of New York furnished:

> *an annual account of their issues, and indeed of all their transactions, to the government; and if there appeared the least suspicion as to the solvency of any of them, a commission was immediately appointed to*

examine into, and report on the matter (HC Deb 27 February 1826, col.881).

However, application of regulated banking financial accountability to all other banks did not occur at this time.

In continuing the debate on the amendment raised by Maberly the Chancellor stated:

that although he was not an enemy to publicity in the transactions of the Bank, he did not conceive that there were the same reasons for demanding a compulsory statement of all its issues, as there were for requiring an account of the circulation of small notes. The House, he admitted, might exercise its power in requiring the amount of issues for a particular purpose; but as a general rule, it was his opinion, that it would lead to serious inconveniencies. He had then stated his objections to the hon. member's motion, to be founded on these grounds; and he begged now to say, that his judgment remained unaltered. It would therefore be better that the subject should now be taken up at the point where it had been broken off.

The Chairman then read the clause enacting that the Bank of England should every month make a return of all the one and two pound notes in circulation since the preceding month, and the amendment moved by Mr. Maberly on Friday, "and also an account of the amount of all the notes in circulation since the last day of the preceding month." On the amendment being put, (HC Deb 27 February 1826, col.893).

The Chancellor indicated that it was an unjust inconvenience, which could mislead and result in undue panic if the public became fearful of suffering loss or bank failure (HC Deb 27 February 1826). Maberly argued that publicity was critical to secure against fluctuations that may arise by the expansion and contraction of bank notes. Further, that the Bank of England had no reason not to publish accounts with the same level of detail as demonstrated in the accounts of the Bank of France. However, he did not suggest that the model adopted by the Bank of France was relevant to Britain. Expectations on the Bank of England were limited to information on its note issues and notes in circulation, which historically could alter significantly. Maberly reiterated that there was no reason for not introducing the additional publicity and that it was in the public interest for the government to compel the bank to make the disclosure (HC Deb 27 February 1826).

Upon assent of the *Bank Notes Act 1826,* the Bank of England was required under Section 6 to deliver to the Treasury a monthly account of notes in circulation under five pounds as well as the total notes in circulation, with the same to be published in the *London Gazette*. Public dissemination of financial information was perhaps the most important contribution of the *Bank Notes Act 1826*. It is worth noting here that these requirements align with items from 1, 5 and 6 of Table 3's concepts of financial accountability.

The *Country Bankers Act 1826* (26 May 1826) was also introduced to restore stability in the English banking sector. The Act amended the monopoly of the Bank of England by allowing the formation of joint stock banks with any number of partners, outside a 65-mile radius of London (Barnes and Newton 2014, pp.9-10). Sections 4 and 5 of the *Country Bankers Act 1826* detailed aspects of accountable governance. In a demonstration of laissez-faire economics, none of these provisions

related to the supply of financial information. Section 4 of *The Country Bankers Act 1826* required a return to be lodged at the London Stamp Office prior to the issue or transaction of bills or notes. A prescribed form was developed for the return that detailed the name of the firm as well as the members and public officers of the bank. Section 5 of the Act required the return to be verified by the secretary or a public officer and lodged annually. Noticeably, these requirements do not align with any of Table 3's concepts of financial accountability.

The Bank of England charter was due for renewal in 1833. This led to discussions in parliament on the subject as well as on other banking institutions. Lord Althorp addressed the House on 31 May 1833 and raised a number of points with implications for country banks (HC Deb 31 May 1833). One of these points considered the subject of financial accountability:

> *It is desirable, that the country should know at all times the exact amount of country bankers' notes in circulation; and not real or substantial evil can happen in the case of any country banker from such an arrangement; and, further, I am of the opinion, that it is desirable to know, not only the amount of each country banker's paper in circulation, but also the amount of his general assets to meet the demands upon him (HC Deb 31 May 1833, col 185).*

The requirement for all other banks 'making and issuing Promissory Notes payable to Bearer on Demand' to prepare a return of notes in circulation was a primary contribution of the *Bank Notes Act 1833* (28 August 1833). However akin to laissez-faire principles, the proposal did not extend on existing requirements placed upon the Bank of England by the legislation of 1826, and there was no requirement for publication. *The Bank Notes Act 1833* required banks to keep

weekly accounts of the average notes in circulation. These averages, consolidated on a quarterly basis, comprised the account submitted to the Commissioner of Stamps. Critically, these requirements align with items 1, 5 and 6 of Table 3's concepts of financial accountability.

The *Bank Charter Act 1833* (29 August 1833) further diluted the monopoly of the Bank of England by removing the 65-mile exclusion zone. This allowed banks to establish in London, albeit without note-issuing rights (Barnes and Newton, 2018). Lord Althorp was instrumental in driving the proposal to establish a secret committee on the Bank of England charter, and on the system of banks of issue in England and Wales (HC Deb 22 May 1832). The secret committee deliberated on three key issues, including financial accountability:

> *What checks can be provided to secure for the Public a proper management of Banks of Issue, and especially whether it would be expedient and safe to compel them periodically to publish their Accounts? (Committee of Secrecy on the Bank of England Charter, 1832, p.2).*

Due to the limited progress of the inquiry and insufficient materials, the committee declined to offer an opinion on all points. They did provide, with some minor exceptions, the evidence collected for the committee report in its entirety, which was key to subsequent parliamentary debates on the Bank of England charter.

Eight resolutions were proposed by Lord Althorp on 31 May 1833 (Orzechowski 2019, pp.191-192). Resolution one through to six were specific to the Bank of England charter. Resolution six and eight related to joint stock banks, and resolution seven related to stamp duty on the issue of bank notes. Resolution one was for the continuation of the Bank of England charter, subject to the

publication of the Bank's accounts. Lord Althorp agreed that the publication of accounts was the most efficient form of check on the bank. The proposal was for the Bank of England to continue as the single bank of issue in London, subject to the control of publicity:

> *As to the next point, to which I have already alluded—the publication of the accounts of the Bank—I propose, that a weekly account of the amount of bullion and securities on the one hand, and of the paper in circulation, and deposits on the other hand, should be presented to the Treasury, and that, at the end of the quarter, the averages of the preceding quarter should be published in The Gazette. I do not suggest, that the publication should take place weekly for this reason—that it might lead, on many occasions, to false impressions. It may frequently occur, from circumstances not at all connected with the state of the currency, or with the State of the exchanges, that a large sum of bullion may be drawn out of the Bank at one period, which, if the account were published every week, might have an effect upon the public mind, neither just nor desirable (HC Deb 31 May 1833, col.178).*

The intent of publishing averages of the preceding quarter was to assure the public of the Bank's ongoing system of sound management.

In resolution six Lord Althorp proposed a return to charter-based incorporation for newly established joint stock banks, subject to certain conditions. Resolution eight addressed the provisions for joint stock banks (HC Deb 31 May 1833). The conditions required joint stock banks of issue to deposit in government securities an amount equal to half of the subscribed capital. The liability of the capital was unlimited, and the Bank of England could not hold any shares in the

bank (HC Deb 31 May 1833). There was also a requirement to publish accounts periodically. For non-issuing joint stock banks, he proposed that one-fourth of subscribed capital comprised government securities. The minimum value of each share was set at £100 and partner liability was limited to the extent of shares held. Notably, resolution six and eight on joint stock banks were withdrawn (Orzechowski 2019, pp. 191-192).

Financial accountability regulations contained within the *Bank Charter Act 1833* may still be considered laissez-faire due to the minimal progression of the clauses within. Section 8 of the Act required the transmission of weekly accounts to the Chancellor of Exchequer. This account contained the amount of bullion and securities of the bank belonging to the governor and company, and of the notes in circulation and deposits. The accounts were consolidated at the end of each month and an average made up of the preceding three months published monthly in the *London Gazette*. The additional requirements introduced after the *Bank Notes Act 1826* related to the disclosure of bullion and securities and the amount of deposits. Here, the financial accountability requirements align with items from 1, 2, 5 and 6 of Table 3's concepts of financial accountability.

Concerns regarding the *Country Bankers Act 1826* were first raised in 1832 due to the growing number of joint stock banks and their questionable character (Newton and Cottrell 1998, p.116). However, it was 1836 before more definitive action was taken, when Clay raised a motion to appoint a select committee to review the deficiencies of the *Country Bankers Act 1826* (HC Deb 12 May 1836). Deliberating on the defects of the system, Clay proposed a three-pronged remedy including the principles of limited liability, paid-up capital and perfect publicity:

The publicity that I would require, moreover, would be real, searching, and effecting – making clear apprehension of all men the circumstances of the bank both as to its assets and liabilities. Such publicity, so far from being injurious, would be in a high degree beneficial to sound and well-conducted banking establishments, and we should permit no other (HC Deb 12 May 1836, col.855).

To support his position, Clay referred to the Bank of England and the benefit of unlimited liability and large paid-up capital. He debated whether 'great errors' and distress could have been avoided if publicity had been imposed on it (HC Deb 12 May 1836). Clay referred to the Bank of Scotland, Royal Bank of Scotland and the British Linen Company who also operated on the principle of limited liability and a large paid-up capital. Similarly, the United States (US) system of banking included almost absolute application of limited liability, paid-up capital and publicity. He raised the *Colombia Banking Act 1817* in the US, where joint stock banks operated under certain conditions including the requirement to provide a full statement of their affairs annually to the Secretary of Treasury (HC Deb 12 May 1836). Here, Clay clearly supports intervention in the financial accountability of banks.

The Secret Committee of Joint Stock Banks presented a report of their findings in August 1836. The committee raised several points regarding the system of banking that required serious consideration. Point 7 touched on financial accountability:

The Law does not provide for any publication of the liabilities and assets of these Banks, nor does it enforce the communication of any

balance sheet to the Proprietors at large (Secret Committee on Joint Stock Banks, 1836, p. ix).

These requirements were subsequently included in the *Joint Stock Banks Act 1844.*

The 1836-37 financial crisis again earmarked note issues as an area for legislative reform (Collins 1978, p.379). In 1840, the House of Commons appointed another select committee to address banks of issue. In moving for the select committee, the Chancellor of Exchequer (Hon. Francis Baring) attempted to justify his recommendation:

> *I state this, in order that the House may see that an inquiry of this nature must be in a very short time forced upon it. It cannot avoid that inquiry; the state of the law of the country renders it inevitable; for I do not conceive it is possible to enter into a fair and proper inquiry touching the renewal of the Bank of England charter, without going, at the same time, into the whole subject (Mirror of Parliament 10 March 1840, p.1676).*

The Chancellor also raised the importance of reviewing the financial accountability clause imposed on the Bank of England in the previous Act:

> *There is, also, for consideration, that clause in the Act which renders notes of the Bank of England a legal tender; and, lastly, a point which is now in the charter, the averages of the Bank of England. Much discussions took place on this point, and much fear and alarm were, at the time, expressed at letting the public into the secrets, as they were called, of the banks. We have now had some experience on that point, and may proceed to consider whether the expected advantage has been derived from it; and if anything turns out to show that the alarm*

was unfounded, whether the Returns, as they are made at present, afford to the public that information which it is intended should be given to them (Mirror of Parliament 10 March 1840, p.1678).

The committee declined offering an opinion to the House on the main subject at hand, instead providing access to the evidence collected. However, on the topic of financial accountability witness testimony highlighted an expectation of increased publicity (Horsefield, 1944, p. 188). The anticipation was secured by *An Act to make further Provision relative to the returns to be made by banks of the amount of their notes in circulation 1841* with application throughout the United Kingdom. Issuing banks were required to keep weekly accounts of the amount of notes in circulation with the averages to be consolidated monthly. The London Gazette published the monthly average of notes in circulation along with accounts provided by the Bank of England for the same period. The practical effect of the Act was to increase the frequency of financial disclosure from quarterly to monthly, and to mandate publication for all banks of issue.

The Bank of England charter came up for renewal again in 1844. Sir Robert Peel raised 11 resolutions for consideration when the House moved into a committee to discuss the subject. Some of these related to points Lord Overstone first raised in his contribution to the debates on the currency, and the evidence he provided during the 1840 select committee hearing (Eltis 2001, p.7). Items one to seven were specific to the Bank of England and items eight to 11 related to other banking institutions (HC Deb 20 May 1844). The *Bank Charter Act 1844* (19 July 1844) restricted note issues to the amounts already in circulation during 1844 and the Bank of England became the only bank able to issue new bank notes (Barnes and Newton 2018, p.460). The Bank of England was separated into the Issue

Department and Banking Department to ensure matters related to the issuing of promissory notes payable on demand (Issue Department) remained distinct from matters relating to the general banking business (Banking Department).

One of the most important innovations of the *Bank Charter Act 1844*, was the requirement to publish bank returns weekly (Whale 1944, p.111). Sir Robert Peel refuted the objections that had been raised regarding publication in 1833. He reiterated the benefit of this approach in reassuring the public regarding the credit of the bank (HC Deb 6 May 1844). It was on these grounds that Peel proposed the publication of Bank of England accounts from both the Banking and Issue Departments. The proposal sought a weekly return to the government of the amount of note issues, amount of bullion, deposits and of securities and in general a summary of all transactions processed by both Departments (HC Deb 6 May 1844).

In addition to Peel's proposal, Wood remarked on the form of published accounts by the Bank of England and deemed it desirable for the inclusion of disclosures on reserves and capital:

> *It is of importance, that we should have the amount of notes "with the public," distinguished from those which form "the reserve of the Bank," within the walls of the Bank. We should have the former, if only for the purpose of comparison with the amounts of circulation now published. It is very desirable too, that the public should know what is the amount of notes in reserve in the Bank. The Bank has an immense monied power, and with such a reserve as they happen to have at present, of 9,500,000l, they have the power of throwing in the money market an amount that would damage the ordinary transactions. It is not likely that the present state of things should last long, or occur very*

often, but still it is desirable that the public should know what is hanging over them in the shape of the Banking reserve. It is also, I think desirable, that the public should know the amount of the capital of the Bank. This has never appeared in the published accounts; but when the publication is to be made so frequent, so accurate, and so full, I think it will be as well that all of the world should see that there is ample security for the safety of the public and of the creditors of the Bank (HC Deb 20 May 1844, pp.1372-1373).

Further to the requirements detailed for the Bank of England, Peel proposed that all other banks issuing promissory notes should provide a weekly publication of issue (HC deb 6 May 1844). Justifying the demand for publicity of note issues, Peel stated:

It is said, that the weekly publication of issues will disclose secrets of which a rival may take advantage; that it will show "the weak point." Now I wish "the weak point" (if there be one) to be shown, and that the public may have the advantage of knowing it (HC Deb 6 May 1844, p.746).

Peel aligned with laissez-faire ideologies, disagreed with further mandates of financial accountability, other than those requirements already raised regarding note issues:

It has been frequently proposed to require from each bank a periodical publication of its liabilities, its assets, and the state of its transactions generally. But I have seen no form of account which would be at all satisfactory – no form of account which might not be rendered by a bank on the very verge of insolvency, if there were the intention to conceal a

desperate state of affairs. The return for instance of "overdrawn accounts" might lead to very erroneous inferences as to the condition of a bank making such a return. A large amount of overdrawn accounts might in one case be indicative of gross mismanagement. It might in another case be perfectly compatible with the security of a bank, acting on the Scotch principle, and making advances at interest to customers in whom the bank had entire confidence (HC Deb 6 May 1844, p.747).

The *Bank Charter Act 1844* detailed the financial accountability provisions to be observed by the Bank of England in Section 6. The bank was required to keep a weekly account in the prescribed form, for the Issue Department and Banking Department. Disclosures for the Issue Department included the amount of note issues, gold coin, gold and silver bullion and securities. Disclosures for the Banking Department included the amount of capital, deposits, and money and securities belonging to the governor and company respectively. The London Gazette would publish these accounts. Akin to the *Bank Charter Act 1833*, these requirements align with 1, 2, 4, 5 and 6 of Table 3's concepts of financial accountability. The disclosure of capital was an important addition in the development of the financial accountability of banks. With the exception of capital, the financial accountability provisions introduced in the *Bank Charter Act 1844* were similar to those already mandated in 1833, but modified to suit a separation of departments (Horsefield 1944, pp. 188-189).

Financial accountability of other issuing banks was dealt with under Section 18 of the Act. Banks issuing notes in England and Wales were to submit weekly accounts in the prescribed form to the Commissioner of the amount of bank notes it issued every day, including an average amount of the notes in circulation during

the same week. At the end of every four-week period, an account of the averages during that period was to be compiled and reported along with the amount of the bank notes authorised to be issued. These requirements varied little from the requirements raised by *The Bank Notes Act 1833.* The London Gazette published the weekly average amounts of the notes in circulation. These requirements also align to items 1, 4, 5 and 6 of Table 3's concepts of financial accountability.

The *Joint Stock Banks Act 1844* (5 September 1844) represented the first significant intervention by the British parliament in regulating banking financial accountability in England. The initial proposal regarding the *Joint Stock Banks Act 1844* was raised in the Commons debate associated with the *Bank Charter Act 1844* (HC Deb 6 May 1844). As with the *Bank Charter Act 1844*, Peel was instrumental in driving the proposal related to joint stock banks. Notably, components of the proposal were similar to recommendations made by Lord Althorp in 1833. Under the provisions of the Act, the charter-based incorporation returned. The proposed amount of capital was set at a minimum of £100,000 and a share value of no less than £100. A number of points were also outlined in the Act for inclusion in the Deed of Partnership for every banking company.

The *Joint Stock Banks Act 1844* took on, in part, the recommendation of the Secret Committee of Joint Stock Banks 1836 regarding the publication of assets and liabilities and yearly communication of a balance sheet to shareholders. The communication of a profit and loss account was also included in the Act, despite not having been a recommendation of the Secret Committee. Eight years had passed before the secret committee's recommendations were implemented.

Section 4 of the *Joint Stock Banks Act 1844* required the Deed of Partnership of every banking company to include specific provisions related to the publication

of assets and liabilities once a month. They also mandated the communication of a Balance Sheet and Profit and Loss Account annually to shareholders. Whilst not a consideration of this study, the Deed of Partnership required an audit. These financial accountability requirements were the most comprehensive in the banking history of England. They align with all items in Table 3's concepts of financial accountability.

V

The 1825-26 and 1836-37 financial crises directed the government's attention to the potential problems associated with note issues. Consequently, note issues became the cornerstone of regulatory reforms for the banks of Britain in the first half of the nineteenth century. The government responded swiftly to the 1825-26 banking crisis, however, in terms of regulating financial accountability the initial response may be deemed laissez-faire. Initial mandates to introduce financial accountability measures were limited to an immediate check on the note issues of the Bank of England. In the *Bank Notes Act 1826*, the Bank of England was required to provide and publish a monthly account of note issues under five pounds as well as the total amount on notes in circulation. Thereafter, the *Country Bankers Act 1826* was passed and was deemed the government's major response to the 1825-26 banking crisis (Barnes and Newton 2018, p.459). Surprisingly, the government refrained from enforcing more mandates to impose financial accountability. This apparent silence was criticised by a secret committee in 1836 as the banking laws did not require the publication of liabilities and assets nor did the laws require the communication of a balance sheet to shareholders.

Lord Althorp was instrumental in ensuring the *Bank Notes Act 1833* extended financial accountability requirements for the disclosure of note issues to all other banks making and issuing promissory notes in London. Whilst interventionist in principle, financial accountability requirements were still limited to note issues. Parliament appeared reluctant to mandate financial accountability requirements already practiced in the US and France. The *Bank Charter Act 1833* similarly led by Lord Althorp, strengthened financial accountability mandates on the Bank of England by introducing disclosures beyond note issues to include amounts of bullion and securities belonging to the governor and company as well as deposits.

The next round of incremental regulatory reforms occurred after the 1836-37 financial crisis, when Peel made a number of recommendations leading to the *Bank Charter Act 1844* and the *Joint Stock Banks Act 1844*. Consistent with the tenets of laissez-faire ideology, the *Bank Charter Act 1844* progressed little in terms of financial accountability, with mandates similar to those enacted in 1833. The Act did, however, split the functions and reporting of the Bank of England into the Issue and Banking departments. The passage of the *Joint Stock Banks Act 1844* introduced extensive provisions for financial accountability in the form of monthly publication of assets and liabilities and an annual communication of a balance sheet and profit and loss account to shareholders. Peel favoured the disclosures surrounding note issues. However, he did not support further mandates of financial accountability for fear of invalid inferences toward the banks making the returns. Regardless, eight years after they were first raised, the *Joint Stock Banks Act 1844* incorporated recommendations from the secret committee report of 1836 by

mandating the monthly publication of assets and liabilities and the yearly communication of a balance sheet to shareholders.

These findings suggest that state intervention in imposing financial accountability requirements on banks in the first half of the nineteenth century was cumulative. Initial findings suggest that parliamentary intervention was limited, due to the fear of mistaken inferences by the release and publication of information. However, by 1844 parliament imposed expansive control over the banking industry by mandating comprehensive financial accountability requirements. Whilst this study has focused primarily on financial accountability related to the disclosure of accounting information in the form of financial reports, future research may extend upon this research to conduct a similar study related to the development of audit and the impact of these developments on banking regulation and financial accountability.

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Table 1. Significant banking enactments (1825-1844)

Enactment	Significance
Bank Notes Act 1826	Note issues restricted for under five pounds. Financial accountability mandated for the Bank of England.
Country Bankers Act 1826	Revised the monopoly of the Bank of England. Encouraged growth of joint stock banks by allowing establishment of banking operations with greater than six partners outside of a 65-mile radius of England.
Bank Notes Act 1833	Extended mandated financial accountability to all other banks making and issuing promissory notes.
Bank Charter Act 1833	Further revised the monopoly of the Bank of England. Removed the 65-mile radius exclusion zone.
Bank Charter Act 1844	Laid foundation for Bank of England to become a central bank. Bank of England became the only bank able to issue new bank notes. Note issues for all other banks were restricted to amounts already in circulation. Bank of England is divided into the Issue and Banking departments.
Joint Stock Banks Act 1844	Increased financial accountability provisions. Publish assets and liabilities once a month. Yearly communication of a balance sheet and profit and loss statement to shareholders.

Table 2. Selected political leaders that contributed to banking financial accountability (1825-1844)

Political leader	Parliament	Party	Banking Act
Charles Woods	Commons Lords	Whig	Bank Charter Act 1844
Frederick John Robinson Goderich (Earl of Ripon)	Prime Minister Commons Lords	Tory Conservative	Bank Notes Act 1826
John Charles Spencer (Lord Althorp)	Commons Lords	Whig	Bank Notes Act 1833 Bank Charter Act 1833
John Maberly	Commons	Tory	Bank Notes Act 1826
Joseph Hume	Commons	Radical	Bank Notes Act 1826
Robert Peel	Prime Minister Commons	Tory Conservative	Bank Charter Act 1844 Joint Stock Banks Act 1844
Samuel Jones Loyd (Lord Overstone)	Commons Lords	Whig	Bank Charter Act 1844
William Clay	Commons	Liberal	Country Bankers Act 1826 Joint Stock Banks Act 1844

**Sources: Evans, 2001; Coohill, 2011; Fetter, 1975*

Table 3. Concepts of financial accountability

	Concept	Description	Bank Notes Act 1826	Bank Notes Act 1833	Bank Charter Act 1833	Bank Charter Act 1844	Joint Stock Banks Act 1844
1	Notes in Circulation	Number and total amount of notes issued under five pounds Total notes in circulation Average notes in circulation	*Bank of England:* Notes in circulation under 5 pounds Total notes in circulation	*Other issuing banks:* Average notes in circulation	*Bank of England:* Notes in circulation	*Bank of England:* Note issues *Other issuing banks:* Daily note issues and average note issues	-
2	Balance sheet	Assets, liabilities, equity including gold coin, gold and silver bullion, securities, capital stock, deposits, money and security belonging to governor and company (notes in circulation are excluded as listed separately above)			*Bank of England:* Bullion and securities belonging to governor and company Deposits	*Bank of England:* Gold coin, gold and silver bullion Securities Capital Deposits Money and securities belonging to governor and company	Balance Sheet
3	Profit and loss statement	Income and expenses	-	-	-	-	Profit and Loss account
4	Prescribed presentation	Pro forma financial account imposed by banking enactment	-	-	-	Separation of Issue and Banking departments Schedule A and B	-
5	Timeliness	Date stipulated within banking enactment for dissemination of financial information	Monthly	Quarterly	Weekly	Weekly	Assets and Liabilities monthly, Balance Sheet and Profit and Loss annually
6	Publication and disclosure	Communication to stakeholders such as to the government, shareholders, newspapers	Treasury London Gazette	Commissioner of Stamps	Chancellor of Exchequer London Gazette	Commissioners London Gazette	Newspaper Shareholders

Note: The Country Bankers Act 1826) is excluded from this table as did not include any of the concepts of financial accountability

7.2 Publication 2: *Origins resting behind banking financial accountability of paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK)*

Game, C. S., Cullen, L. M., & Brown, A. M. (2020). Origins resting behind banking financial accountability of paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK). *Business History*, 1-25.

This is an Accepted Manuscript of an article published by Taylor & Francis in Business History on 12 February 2020, available online: http://www.tandfonline.com/doi/full/10.1080/00076791.2020.1718109

Origins resting behind banking financial accountability of paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK)

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Origins resting behind banking financial accountability of paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK)

Abstract

Applying tenets of legal origin theory, this paper traces the origins of banking financial accountability resting behind paragraphs 78 to 82 of the First Schedule of the *Companies Act 1862 (UK),* where the timely disclosure of a balance sheet and statement of income and expenditure to stakeholders are scrutinised. Comparative legal analysis of 503 banking enactments of the US, Canada and England during the eighteenth and nineteenth century reveals that expectations of formal accounts raised by the *Companies Act 1862 (UK)* were informed by the *Colombia Banking Act 1817 (CO*) in the US*,* the Canadian *Mauritius Regulations 1830* and the *Joint Stock Banks Act 1844 (UK)*.

Keywords

Banking, Canada, comparative legal analysis, *Companies Act 1862 (UK)*, England, formal accounts, financial accountability, legal origin theory, United States

1. Introduction

The provision of financial reports by banks in the nineteenth century was considered a form of stewardship, providing evidence of stability in the financial system and increasing the trust of stakeholders and the public in the banks conduct (Lloréns, 2004). Early stewardship concepts were inspired "by the notion that both the owner's and the society's interests are to be served" (Chen, 1975, p.536). Thus, in addition to stewardship responsibilities to the government and owners, banks in the nineteenth century held a close association with the public interest given the public's reliance on

the services of the banks and the banks' influence over the financial stability of society (Sánchez-Ballesta & Lloréns, 2010). A legal recognition of this, banking financial stewardship was established by paragraphs 78 to 82 of the First Schedule of the *Companies Act 1862 (UK)*. The enactment laid out rigorous responsibilities on banks and other companies to provide stewardship to society through specific rendering of formal accounts and accountability. Indeed, the *Companies Act 1862 (UK)* was so significant that many banks in England subsequently adopted limited liability that this Act advanced, and the passing of free incorporation law followed in France in 1867, Spain in 1869, Germany (Northern German Confederation) in 1870, Belgium in 1873 and Italy in 1883 (Sylla, 1985).

During the eighteenth and nineteenth century, England was recognised as a global leader in financial regulation with its banking system emulated throughout the British Empire and elsewhere (Braithwaite, 2000). Whilst some literature has investigated the history and origins of England's banking institutions (Barnes & Newton, 2014, 2017; Capie, 1993; Horsefield, 1944; McQueen, 2009; Munn, 1988), few studies have adopted an international accounting perspective addressing legislative sources of banking financial accountability from both sides of the Atlantic. This paper seeks to address this gap by exploring whether England's banking financial accountability was influenced by notions of legislative financial accountability of outside jurisdictions. In doing so, the paper focuses on the reciprocal exchange of legislative ideas between origin and recipient countries, specifically England, the United States (US) and Canada.

A comparative analysis between countries is supported where the procedure practiced in one country if adopted in the other would result in the same or similar outcomes (Benston, 1976). Both the US and Canada were recipients of English

Common Law. Despite operating under a mutual legal system, development of the corporate form in the three countries differed. Britain's early trading companies in the seventeenth century were generally established by royal charter or specific acts of parliament and had the benefit of limited liability from inception (Bathurst, 2013). The Bubble Act of 1720 was Britain's first attempt at implementing corporations law. Designed to limit the growth of unincorporated joint-stock companies, the Act resulted in the reluctance of government to grant charters. The 'deed of settlement company' developed between 1720 and 1825 and provided many of the benefits of incorporation (Bathurst, 2013; Edwards, Anderson & Mathews, 1997). Modern company law was introduced in 1844, although without the benefit of limited liability.

Incorporation in the US after the Declaration of Independence was commonly granted by way of special acts of the state legislatures and the unincorporated joint-stock company was less prevalent. A number of US states introduced incorporation under a general Act several years prior to England. For example, New York was 33 years earlier, with the model based on the statutory or chartered corporation in contrast to the unincorporated company or partnership (Gower, 1956).

Canada passed the first general companies Act in 1850 for mining, mechanical and chemical companies. The Act emulated the New York Act passed two years prior, simplified incorporation and bestowed limited liability upon the companies (Currie, 1962). Application of the Act was extended to a number of other company types between 1853 and 1860 (Brearey, 2011).

The dominance of the unincorporated company in England prior to 1844 meant that self-regulation was emphasised through constitutions and by-laws, over external regulation. Hence, the level of accountability applied in England has long been associated with the existing practice of incorporated and unincorporated joint stock

companies (Edwards et al., 1997; Edwards & Webb, 1985; Freeman, Pearson & Taylor, 2011; Napier, 2010). Companies acting in a free market economy during the early nineteenth century voluntarily published annual (and sometimes semi-annual) financial statements as a means of satisfying information needs of shareholders on the usage of capital and dividend payments (Napier, 2010). The philosophy of the period was one of laissez-faire in terms of mandating these requirements due to the belief that the financial affairs of a company were private and concerned only the shareholders, managers, directors and employees (Benston, 1976). An exception to the laissez-faire philosophy related to particular industries such as banks, railways and insurance companies which were subject to more stringent regulations (Parker, 1990). Shareholder demands for financial accountability of the Bank of England can be traced back to the 1690's in its early years (Freeman et al., 2011).

Those companies established in England under a deed of settlement were governed by a set of rules which stipulated accounting and financial disclosure requirements. Presentation of accounts at an ordinary general meeting was a common inclusion of corporate constitutions along with providing shareholder access to the accounts through right of inspection (Freeman et al., 2011; Pearson, 2002; Taylor, 2006). However, banking constitutions generally denied shareholder access to the books for the fear of revealing a competitive advantage (Freeman et al., 2011). Whilst features embedded in the early constitutions of English corporations raised formal expectations of financial accountability, this study expands on this notion and explores how interrelated legislative environments may have influenced parliamentary moves to legislate these expectations. Legal origin theory (hereafter referred to as legal origins) is used to analyse the development of financial accountability established by paragraphs

78 to 82 of the First Schedule of the *Companies Act 1862 (UK)*. The research question posed is:

> What evidence of financial accountability of the *Companies Act 1862 (UK)* was informed by eighteenth and nineteenth century banking enactments of the United States, Canada and England?

The paper is organised as follows. Firstly, the banking history of the US, Canada and England during the eighteenth and nineteenth century is outlined to illuminate the milieu of the period under review. Secondly, the theoretical approach of the study is elaborated. This comprises a description of the assumptions and tenets of legal origin in terms of the research question. This is followed by an explanation of the methods employed to delineate the foundations and underlying the use of comparative legal analysis. Finally, results are presented and a conclusion is provided in the final section of the paper.

2. Banking history of the eighteenth and nineteenth century

Sources of banking regulation of the US, Canada and England were very different (Schooner & Taylor, 1999). During the nineteenth century, England's banking and banking regulatory system was dominated by the Bank of England (Checkland, 1975). The US banking system was fragmented, dominated by unit banks[1] and many regulators (Schooner & Taylor, 1999). Canada, was a mix of both the English and US banking systems. Origins of early Canadian banks may be traced to the US with the early banks of Lower Canada adopting the charter of the Bank of the United States (Shearer, 2005). The British Treasury increased influence in Canada from the mid nineteenth century

[1] Unit banks are generally local institutions, small and independent, offering banking services to a target market (Cartinhour, 1934).

with the introduction of the imperial regulations for colonial banks (Shearer, 2005).

2.1 England

The Bank of England was created in 1694 by Royal Charter and from inception was granted joint stock status and unlimited liability. Prior to 1826 the bank held governmental privileges by way of a monopoly over banking in central London (Collins, 1988). Most other banks at this time were private banks operating under the partnership form with a small number of owners and unlimited liability (Barnes & Newton, 2017; Newton, 2007).

The early banking legislation of England contained minimal requirements for financial accountability. The *Bank Notes Act 1826 (UK)* compelled the Bank of England to provide a written account monthly, of notes in circulation under five pounds as well as the total amount in circulation, and to be published in the London Gazette. These provisions were debated in the House of Commons, which referred to America as having already adopted the system of banking proposed in England (HC deb 27 February 1826). Members of the House of Commons drew attention to the fact that the Americans were already aware of the benefits of publicity as a check of proceedings. Furthermore, the House of Commons was made aware of the regulatory environment of the chartered banks of New York which were required to furnish a detailed annual account to the government of note issues and all other transactions of the bank (HC deb 27 February 1826).

Following the banking crisis of 1825-26, the English banking sector underwent a regulatory transformation with the passing of *The Country Bankers Act 1826 (UK).* This removed the monopoly of the Bank of England and allowed the formation of joint stock banks with unlimited partners outside a 65-mile radius of London (Newton, 2007). The

establishment of joint stock companies came with the separation between ownership and control, contributing to increased expectations of financial accountability (Freeman, Pearson & Taylor, 2013; McCartney & Arnold, 2012). Despite this, *The Country Bankers Act 1826 (UK)* remained silent on provisions of financial accountability. The Irish banking reforms of 1821 and 1824 served as the model for *The Country Bankers Act 1826 (UK)*, with banking institutions of both Ireland and England based on the successful model of joint stock banking experienced in Scotland (Acheson, Hickson & Turner, 2011; Collins, 1988; Munn, 1988). Notably, Scotland and Ireland lagged behind England in regulating financial accountability. In Scotland, the *Bank Notes (Scotland) Act 1845* required banks to render accounts weekly to the Commissioners in a prescribed form, detailing the amount of bank notes in circulation and the amounts of gold and silver held by the bank and annex to such accounts four weekly averages of the same. From the returns submitted, the commissioners were required to compile a general return of the monthly averages to be published in the London Gazette. The practice of publishing annual reports in the form of abstract balance sheets and profit statements began in 1865 (Kerr, 1898). Before 1865, very little data was released publicly by Scottish banks and there appeared no interest in the provision of timely, systematic disclosures (Checkland, 1975). The *Bankers (Ireland) Act 1845* introduced similar requirements as the *Bank Notes (Scotland) Act 1845,* with the commissioner also required to compile a monthly return which was to be published in the Dublin Gazette.

The introduction of the *Bank of England Act 1833 (UK)* brought about increased financial accountability requirements on the Bank of England with the Act requiring an account of bullion and securities belonging to the said governor and company, notes in circulation and deposits in the Bank of England to be sent weekly to the Chancellor of

Exchequer[2]. The accounts were to be consolidated monthly and averages compiled quarterly and published every month in the London Gazette. Other banking institutions issuing promissory notes were compelled under the *Bank Notes Act 1833 (UK)* to maintain weekly accounts of the average amount of notes in circulation and from these accounts make up accounts quarterly to lodge at the London Stamp Office.

In 1836, the House of Commons compared *The Country Bankers Act 1826 (UK)* to the US banking legislation, specifically the *Colombia Banking Act 1817 (CO)*[3] (HC deb 12 May 1836). A member of the House pointed to the benefits of the US banking system and the advantages of the US's almost universal application of the principles of limited liability, paid-up capital and publication of accounts (HC deb 12 May 1836). The *Colombia Banking Act 1817 (CO)* deemed any joint stock bank as a corporation if capital was paid up and that bank furnished a full statement of their affairs annually to the secretary of the Treasury (HC deb 12 May 1836). Thereafter, a committee on joint stock banks was formed to inquire into the operation and deficiencies of *The Country Bankers Act 1826 (UK)*. A number of points were raised by the committee in a report on the operation of *The Country Bankers Act 1826 (UK)*, including point 7 which stipulated "the Law does not provide for any publication of the liabilities and assets of these Banks, nor does it enforce the communication of any balance sheet to the Proprietors at large" (Committee on Joint Stock Banks, 1836, ix). This marks a decisive moment in British business history in which banking financial accountability was extensively critiqued and scrutinised by parliament.

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[2] The Chancellor of the Exchequer during the nineteenth century represented a government official with responsibility for treasury functions; receiving and dispersing of public revenues.

[3] The District of Colombia operates under the jurisdiction of the US Congress.

Indeed, point 7 of the 1836 Committee Report on Joint Stock Banks was incorporated in the *Joint Stock Banks Act 1844 (UK)*, requiring publication of assets and liabilities at least once in every calendar month and for the yearly communication of the balance sheet and profit and loss to the shareholders.[4] It appears that "the level of attention that Victorians accorded to companies" in the mid-nineteenth century brought with it a wave of wider company legislation (Alborn, 2007, p.148). It heightened the basis of "administrative reform in joint-stock banking proceeded from a combination of outside legislative pressures and market incentives for improved efficiency" **(**Alborn, 2002, p.208).

The *Joint Stock Companies Act 1844 (UK)* was passed on the same date as the *Joint Stock Banks Act 1844 (UK).* The Act led to reforms in companies' legislation introducing mandatory financial accountability and publicity requirements. Thereafter, the *Companies Clauses Consolidation Act 1845 (UK)* sought to establish clear guidelines around the provision of such accounts. Paragraph 116 stated that a balance sheet shall be made up with the inclusion of capital stock, credits, property and debts due by the company as well as details on the profit or loss of the company. Paragraph 117 required the books and balance sheet to be available for inspection and paragraph 118 required the balance sheet to be presented at an ordinary meeting.

The Joint Stock Companies Act 1856 (UK) amended some of the key financial accountability and publicity provisions of the 1844 Companies Act;

> The 1844 Act had stipulated the annual registration of an audited balance sheet; the 1856 Act left it to shareholders to decide whether to adopt model articles which included the same requirement (Maltby, 1998, p.22).

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[4] The financial crisis of 1837 affected both Britain and America (Chaplin, 2016) and may have influenced future financial accountability disclosures, however this is not under investigation in this study.

The model articles contained recommended regulations in Table B of the 1856 Act. If no other regulations were prescribed or if these provisions were not amended by the company, then these regulations were deemed to be the regulations of the company. The financial accountability requirements detailed accounts to be kept of stock, sums and details of money received and expended, and credits and liabilities of the company. Annually at a general meeting the directors were required to present a statement of income and expenditure and balance sheet. Section 48 of the *Joint Stock Companies Act 1856 (UK)* also provided for the examination of the affairs of the company by a Board approved Inspector should one fifth (in number and value) of shareholders require it. The clause was in essence borrowed from the New York code and was believed an important addition to the Act to "remove the real grievances under which shareholders labour" (HC deb 1 February 1856). These were the same provisions that were replicated in Section 56 (2) and paragraphs 78 to 82 of the First Schedule, *Companies Act 1862 (UK)*.

A milestone in English banking history, *The Joint Stock Banking Companies Act 1857 (UK)* allowed banks to register under general companies' legislation, with unlimited liability. Financial accountability requirements did not change with assent of the *Joint Stock Companies Act 1857 (UK)*. Limited liability was provided to banks with the passing of the *Joint Stock Banks Act 1858 (UK)*. The Act included specific financial accountability provisions on banks with all limited joint stock banking companies required to provide a financial statement in specified form bi-annually of the liabilities and assets of the company. These requirements were additional to the 1856 and 1857 Companies Acts and were similar to those detailed in paragraph 44 of the *Companies Act 1862 (UK).*

A total of 4,507 companies were registered under the *Companies Act 1862 (UK)* (Levi, 1870). Banks were required to register under the 1862 Act if they were formed with more than ten shareholders and were not registered pursuant to any other act. The 1862 Act did not apply to banks formed with less than seven shareholders. In the case a bank was formed with between eight and ten shareholders they were provided the option to register under the 1862 Act or to continue operations under the old banking status (Foucaud, 2011).

Banks and financial institutions were not necessarily convinced by the allure of limited liability offered by the Acts of 1858 and 1862:

> London's bankers did not change their practices. In fact, the well-established banks were never really tempted by this institutional innovation: they expected that by staying with the unlimited-liability system they would inspire greater trust in their customers. Even the new banks hesitated, out of fear that they could not compete with the old ones (Robb 1992 p.69, cited in Foucaud, 2011, p.VIII).

The number of finance and banking institutions setup under limited liability was 2 between 1856 and 1859, 23 between 1860 and 1862 and 97 between 1863 and 1865 (Hunt, 1936). Evidently, registrations increased significantly in the later years.

A question remains around the extent to which the 'accounts' section of the First Schedule of the *Companies Act 1862 (UK)* was adopted or ignored by companies registering under the Act. Whilst outside the scope of this paper, the uptake of the First Schedule has been investigated within the extant literature (see for example Acheson, Campbell & Turner, 2019; Edwards et al., 1997; Edward & Webb, 1985). Critically these studies indicate a significant variance in the uptake of the First Schedule of the 1862 Act during what was referred to as the 'voluntary era'. Here it was noted that in Britain, private contracts between shareholder and corporation created an efficient instrument of accountability and therefore statutory regulation was less relevant.

Acheson et al (2019) further conclude that many of the protections afforded to shareholders during the voluntary era were subsequently adopted in mandatory legislation. One example of this related to the provision on the distribution of accounts. Results showed that the provision was adopted by over half the companies sampled with increased use of the clause over the second half of the nineteenth century. The provision recommended for adoption in the *Company's Act 1862 (UK)* was made mandatory in the *Company's Act 1900 (UK)*.

2.2 United States

The first federal chartered bank of the US was established in 1791, and was based in part on the Bank of England (Knox, Youngman & Rhodes, 1903). In a demonstration of early US banking financial accountability, the charter included financial accountability provisions for inclusion in the articles of the constitution. The bank was required to furnish a report on the condition of the bank to the Secretary whenever it was required to do so, although not more than weekly. The report required details of the amount of capital stock, debts due to the corporation, monies deposited, of notes in circulation and of cash in hand. The charter was terminated in 1811 after a change in government which held a different view on national banking (Knox et al., 1903). The absence of a national bank was apparent during the War of 1812 and another federal charter was issued in 1816 for the second bank of the United States. The charter replicated financial accountability requirements of the first bank of the US and similarly was not renewed on expiry.

Development of the US equity market was rapid. It appears that by 1825 the size of the equity markets of the US and UK were on par, and this, despite development of the English market preceding the US by nearly a century;

> Thus, when the two financial systems are compared, conventional views that the English were far and away the financial leaders of the 19th century, and that the United States ca. 1825 was just beginning to develop in modern ways, would seem to require revision. Financially, the United States had developed quite a lot in the decades before 1825 (Rousseau and Sylla, 2005, p.9).

Indeed, by 1825, there were differences between the US and English markets in banking.

> The Americans had banks in spades. The English market in 1825 listed but two, one the Bank of England—more a government security than a private equity, and treated by the English as such—and the other not an English bank at all, but the Provincial Bank of Ireland. Apart from the Bank of England, up to 1825 virtually all English banks were small proprietorships or partnerships, whereas US banks were mostly large corporations with stockholders (Rousseau and Sylla, 2005, p.9).

From 1836 to 1863 banks were generally established by state charter (Calomoris, 2000). No regulated uniformity of banking financial accountability was enforced across the states. However, the charters of the first and second federal bank charters were used as a model for later established banks in some of the states (Beckhart, 1922). The concept of free-banking arose out of the state banking era with The *Michigan Act 1837 (MI)* being the first of the free-banking legislature, followed by the *New York Free Bank Act 1838 (NY)*. The New York free-banking system was established as a means of overcoming chartering restrictions and to afford protection to noteholders (Economopoulos, 1987). Financial accountability restrictions on the free banks were more onerous than those that applied to chartered banks (Economopoulos, 1987). Free banks had to submit financial returns on a semi-annual basis whereas chartered banks submitted returns annually (Economopoulos, 1987). Free banks were also required to publish these reports in local newspapers, a condition that was not enforced on chartered banks (Economopoulos, 1987). Nevertheless, the free banking era was associated with banking panics, uncertainty and bank failures due to an absence of

federal legislation, minimal barriers to entry, the ability of banks to issue their own notes and increased competition (Dwyer, 1996).

The National Bank Act 1864 (US) was an attempt to regain federal power over the US banking system and establish a uniform currency (Schooner, 1999). The Act provided a national framework for financial accountability, requiring a quarterly report to be made out to the Comptroller of the Currency in prescribed form detailing resources and liabilities of the banking association. Abstracts of the report were published in a place where the association was established. Additionally, the Act required monthly statements to the Comptroller of the average amount of loans and discounts, specie and other monies belonging to the association, deposits and circulation. Notably, some states did not oblige with the expectation to convert local bank charters to a national one resulting in a dual system of state banks and national chartered banks thereafter (Hoag, 2015; Schooner, 1999).

2.3 Canada

Commercial banks in Canada were incorporated by charter until the 1830's (Shearer, 2005). The *Bank of Upper Canada Act 1821 (Canada)* required directors to present an annual return including funds and property of the bank, the amount of capital stock, amount of debts due to and from the bank, amount of the bills and notes in circulation and the amount of specie in the bank. Charters of the early banks of Lower Canada including the Bank of Montreal, Quebec Bank and the Bank of Canada contained detailed financial accountability requirements for timely disclosure of assets and liabilities and surplus profits, after deduction of losses and provision for dividends.

Colonial intervention in Canadian banks commenced with *The Mauritius Regulations (1830)* with the regulations sent to Canada in 1833 by the Governor for future banking institutions (Shearer, 2005). Financial accountability requirements of the

2nd paragraph of *The Mauritius Regulations (1830)* required publication of accounts that showed the amount of debts and assets at the close of each half-year including notes in circulation, amount of specie and other assets. General banking legislation was passed thereafter which followed these regulations. An *Ordinance to regulate private banking 1839 (Canada)* required a statement of effects[5] and liabilities to be transmitted to the Governor at the end of every three months and the statement was to be published in the Quebec Gazette, Montreal Gazette and one other newspaper.

After the new province of Canada was formed in 1841, the select committee on banking and currency recommended renewal of bank charters under the expectation that the charters accord with the *Colonial Banking Regulations (1840)* provided by the imperial government (Breckenridge, 1895). The 1840 regulations (amended 1846) were akin with *The Mauritius Regulations (1830)* in terms of financial accountability and included the requirement of banks to publish statements on the average amounts of the assets and liabilities either half-yearly or yearly.

Free-banking was introduced into Canada in 1850 with assent of the *Freedom of Banking Act 1850 (Canada)*. The bill, modelled on the New York free banking laws (Breckenridge, 1895*)* restricted note issues for amounts less than 5 shillings and required half-yearly returns to be lodged with the Inspector General. An amendment to the bill was passed a year later, changing the schedule of bank returns to monthly. The 1850 Act was repealed in 1866. Thereafter, The *Constitution Act 1867 (UK)* united the provinces of Canada, Nova Scotia and New Brunswick into one Dominion with the parliament of the new Dominion given authority for banking and incorporation of banks.

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[5] The term 'effect' has the same meaning as asset of the said banking association.

3. Theoretical approach

This study uses legal origins as an explanation for the legislative sources of financial accountability of the *Companies Act 1862 (UK)*. Legal origins considers how a country's legal system has been developed. Legal origins posits that legal ideologies are transferred between an origin and recipient country as a result of colonisation or conquest (Fairfax, 2009; Game, Cullen & Brown, 2018; Mahy, 2012). Legal traditions are classified into legal systems with civil law and common law considered most dominant (La Porta, Lopez-de-Silanes, Shleifer & Vishny, 1998). The comparatively older system civil law, is most commonly associated with the French civil-law tradition and is based on laws developed by legal scholars (Glaeser & Shleifer, 2002). In contrast, the common law of England is derived from judicial precedents from court proceedings and similar tribunals (La Porta et al., 1998).

Following the transplant of basic legal institutions such as legislation, legal principles and ideologies, legal traditions changed and adapted to local economic conditions, leading to a situation where no two countries operated under identical legal systems (La Porta, Lopez-de-Silanes & Shleifer, 2008). However, the basic legal institutions remained in place to sustain the continuing classifications surrounding legal families (La Porta et al., 2008).

The transplant effect reflects the reception toward transplanted laws in recipient countries (Berkowitz, Pistor, & Richard, 2003). The process directs that the law or legislation under consideration has clear meaning and that it must be capable of being detached and transferred to another country (Game et al., 2018). Furthermore, the transplanted law often had a practical purpose in benefiting the recipient country (Game et al., 2018). This transplant suggests a singular top-down approach to the concept of legal origins. This paper broadens the tenets of legal origins by incorporating the

possibilities of an integrated transfer of legislative ideas between former colonies and coloniser. Here, legal origins enquires into the historical trajectory of a country's laws and institutions by considering how both domestic and outside institutions may have affected them. In this sense, legal origins assumes that legislative construction is informed by earlier legislative enactments from both domestic and external jurisdictions to construct later legislation.

4. Methods

This study applies comparative legal analysis to trace facets of accountability of banking enactments of eighteenth and nineteenth century banking legislation of the US, Canada and England that helped inform the expectations of accountability raised by the *Companies Act 1862 (UK)*. Comparative legal analysis compares similarities and differences between two or more legal systems, or parts thereof, before moving into the field of explanation (Nelken & Orücü, 2007).

As shown in Table 1, financial accountability provisions were extracted from 503 banking enactments of the US, Canada and England. US federal, state and territory banking legislation were extracted from the HeinOnline Session Laws Library. Canadian legislation was obtained from the HeinOnline Provincial Statutes of Canada database and the HeinOnline Acts of the Parliament of Canada (Annual Statutes) database. The British colonial banking regulations were obtained from newspaper sources including The Patriot (Toronto newspaper), Sydney Gazette and New South Wales Advertiser and the Melbourne Argus. Banking and company legislation of England were extracted from the Justis legal database. Parliamentary debates and committee reports were accessed via the UK Parliament Hansard records online and the HathiTrust Digital Library.

[INSERT TABLE 1 HERE]

All *available* legislation containing financial accountability provisions – the US both state and federal, Canada and England were included within the sample. Legislation which did not include financial accountability provisions were excluded from the sample. Searching the HeinOnline State Session Laws Library either involved a review of available indexes or table of contents for each year by state and/or territory, or use of the HeinOnline search function. The search function provided the option to search by 'bank' and 'state' within state session laws, for the period up to and including 1862. A similar search was conducted for US federal legislation via the US Statues at Large Session Laws Library and for Canada, the applicable legal databases. Where located, banking legislation was reviewed for financial accountability provisions and the legislation was incorporated within the sample of this study. A search of the Justis legal database for England involved a review of all banking and companies' legislation between the periods 1694 to 1862. Where financial accountability provisions were located and deemed relevant to this study the legislation was included in the sample set. It should be noted that while the enactments of UK were country-wide, the majority of the passage of enactments of the US were state-wide. Both country-wide and state wide banking enactments had the enabling function of providing evidence of financial accountability to answer the research question.

Table 2 outlines the financial accountability requirements framed by paragraphs 78 to 82 of the First Schedule, *Companies Act 1862 (UK)*. The comparative legal analysis involved a process of comparing and contrasting financial accountability provisions to identify similarities and differences between banking enactments, highlighting those which may have informed paragraphs 78 to 82 of the First Schedule, *Companies Act 1862 (UK)*. The 503 enactments under review were considered to be

aligned with the 1862 Act when the enactment under review made specific references to the items described in paragraphs 78 to 82 in Table 2. However, where a banking enactment included provisions related to reserved funds or surplus profits this was deemed to have met paragraphs 81 and 82, rather than paragraph 79 and 80, as the items are included in the Figure 1 Balance Sheet presentation categories.

[INSERT TABLE 2 HERE]

In terms of probing further details of the balance sheet, Figure 1 depicts the reporting expectations placed on banks under paragraph 81 of the First Schedule, *Companies Act 1862 (UK)* to furnish details of transactions on capital, liabilities, as well as of property and assets. Each category (except contingent liabilities) within the proforma balance sheet is identified by a roman numeral and each item disclosed in each category is provided a number. The roman numerals and numbers are used within the results to link aspects of financial accountability within the banking enactments analysed to the balance sheet requirements of the *Companies Act 1862 (UK)*.

[INSERT FIGURE 1 HERE]

5. Results

A sweeping appraisal of the 503 banking enactments generated between 1791 and 1862 that contained financial accountability provisions linked to paragraphs 78 to 82 of the eventual *Companies Act 1862 (UK)* is shown in Table 3. The ten yearly intervals depicted in Table 3 reveal that many US enactments touched upon the financial accountability issues raised by paragraphs 78 to 82 of the eventual *Companies Act 1862 (UK)*, several years in advance of enactments generated in the jurisdictions of England and Canada. In particular, some US enactments addressed financial accountability

provisions associated with the statement of income and expenditure (paragraph 79 and 80) 50 years prior to the enactments of England. Canada, on the other hand, did not introduce specific accountability provisions aligned with paragraph 79 and 80 of the Act during the period up to 1862. Similarly, some US enactments addressed financial accountability provisions associated with the Balance Sheet (paragraph 81 and 82) 30 years prior to both England and Canada.

[INSERT TABLE 3 HERE]

As shown in Table 4, 73.3% of US federal and state banking enactments demonstrated a focus on the timely reporting relating to the balance sheet. Of the 430 banking enactments, only 7.4% emphasised the financial accountability related to paragraph 79 and 80 of the First Schedule, *Companies Act 1862 (UK)*. Critical expectations in regard to the statement of income and expenditure was evident from 1795 in Maryland with the assent of *An Act to establish a bank, and incorporate subscribers thereto 1795 (MD)*, that link to paragraph 79 and 80 of the First Schedule, *Companies Act 1862 (UK).* Section 12, paragraph 19 of the Act required an annual statement detailing the amount of capital stock, debts due to and from the corporation, of monies deposited, notes in circulation, cash in hand and of profits made. Similar expectations related to profit or loss information occurred in Tennessee in 1811, Illinois in 1820, Indiana in 1834, Missouri and New Jersey in 1837, New York in 1843, Wisconsin 1852, Minnesota 1858 and Kansas in 1861. Tennessee (1811) included accountability requirements of profits made; Illinois (1820) of expenses incurred; Indiana (1834) of rents paid and compensation to officers; Missouri (1837) included details of expenses; New Jersey (1837) of interest received, profit and loss, and of current expenses; New York (1843) of profits, loss and expense account; Wisconsin

(1852), Minnesota (1858) and Kansas (1861) of loss and expense account. This finding suggests that the statement of income and expenditure was not formalised as a critical form of financial accountability in the US during the early nineteenth century. Similarly, in the UK the statement of income and expenditure did not gain prominence until assent of the *Joint Stock Banks Act 1844 (UK)* (Jones & Aiken, 1994).

[INSERT TABLE 4 HERE]

Whilst all banking enactments from the US link to paragraph 78 of the First Schedule, *Companies Act 1862 (UK),* 115 of these enactments were difficult to categorise in terms of paragraphs 79 – 82 of the First Schedule, *Companies Act 1862 (UK)*. The types of provisions reviewed in this instance included the requirement of directors to keep fair and regular entries in a book of proceedings, directors to examine into the state of accounts, and the right of inspection into the doings or affairs of the banking entity by external committees or bank commissioners. Other provisions required the banking entity to furnish a statement or return, whilst not specifying the nature of type of inclusions. In a demonstration of contemporary financial accountability in Virginia, *An Act concerning the banks of this Commonwealth 1842 (VA)* required the inclusion of comparative data within quarterly statements, showing the condition of the bank for the corresponding quarter of the preceding year. This requirement has not been noted in the review of banking legislation (up to and including 1862) of Canada or England.

Table 5, highlights I1 Capital - shares, I2 Capital - amount paid per share, II6 Liabilities - debts owing, IV9 Assets - debts owing to the bank - secured, IV10 Assets - debts owing to the bank – no security, and V13 Assets – cash were fundamental areas of US balance sheet accountability, as framed by paragraph 81 of the First Schedule of the

Companies Act 1862 (UK). Less focus is evident on balance sheet categories IV11 Assets - debts owing to the bank – doubtful and bad, VI Reserve Fund – amount set aside from profit, VII- Profit and Loss – balance for dividends payment, and contingent liabilities, although accountability increased in these areas across the time period.

Consistent with these results, the federal *Charter of Incorporation 1791 (US)* required the fundamental articles of the Constitution of the first Bank of the United States under section 7 to furnish a report on the condition of the bank to the Secretary whenever it was required to do so, although not more than weekly. The report of the condition of the bank required details of the amount of capital stock, debts due to the corporation, monies deposited, notes in circulation and cash in hand. Financial accountability requirements of the charter of the second bank, replicated those contained in the charter of the first Bank. These requirements were more rigorous than the *Bank Notes Act 1826 (UK)* and *The Country Bankers Act 1826 (UK)*. It was not until the passage of the *Bank Charter Act 1844 (UK)* that financial accountability of banks in the UK aligned with financial accountability requirements of the charter of the first Bank of the United States.

[INSERT TABLE 5 HERE]

Section 19 of the *Colombia Banking Act 1817 (CO)* required detailed annual reporting information in balance sheet form, including details of debts, credits and funds of the bank. Financial accountability provisions of the *Colombia Banking Act 1817 (CO)* was integral to the decision made by the House of Commons to establish a committee to oversee deficiencies in *The Country Bankers Act 1826 (UK)*. The *Banking Act 1817 (CO)* appears to have informed financial accountability provisions of the *Joint*

Stock Banks Act 1844 (UK) and ultimately paragraph 81 and 82 of the First Schedule, *Companies Act 1862 (UK)*.

In terms of the development of financial accountability in Canada, expectations of formal accounts are evident from the early nineteenth century with the passing of the first bank charters (Shearer, 2005). As shown in Table 4, 96.8% of banking enactments reviewed demonstrated financial accountability links to paragraphs 81 and 82 of the First Schedule, *Companies Act 1862 (UK)*.

Table 5 shows Canada exhibited a high level of balance sheet accountability in the categories of II5 Liabilities - loans on mortgages and debenture bonds, II6 Liabilities - debts owing, III7 Property - immovable property, IV9 Assets - debts owing to the bank - secured, IV10 Assets - debts owing to the bank – no security, IV11 Assets - debts owing to the bank – doubtful and bad, V13 Assets - cash – where and if interest bearing, VI Reserve Fund – amount set aside from profit, and VII Profit and Loss – balance for dividend payment. This finding highlights a greater focus on property, reserved funds and bad and doubtful debts, and slightly lesser focus on capital, when compared with the US. Table 5 along with Table 4, emphasise the absence of financial accountability in Canada surrounding the statement of income and expenditure. None of the banking enactments reviewed included the requirement of profit and loss information beyond detail on reserved funds or surplus profits, included in the balance sheet.

One of the earliest forms of financial accountability in Canada was evidenced by an *Act of incorporation of the Bank of New Brunswick 1820 (NB)*. The bank was required under the Act to provide a statement to stockholders at the annual general meeting detailing debts due to, and by the corporation, notes in circulation, gold and silver on hand, debts which are considered bad or doubtful and surplus or profits

remaining after deduction of losses and provisions of dividends. The *Bank of Upper Canada Act 1821 (Canada)* whilst silent on bad and doubtful debts and surplus profits, included additional disclosures under the categories of capital and property. Balance sheet disclosure expectations had increased significantly by 1832 with the passing of the *Act of Incorporation of the Commercial Bank of the Midland District 1832 (UC)*. The bank was required to present a return to the Provincial Parliament annually including all amounts due from the bank and of resources of the bank. Details of capital stock, dividends paid, doubtful debts and reserved profits were also required. Financial accountability outlined in the *Ordinance to regulate Private Banking 1839 (Canada)*, also linked with paragraphs 78, 81 and 82 of the First Schedule, *Companies Act 1862 (UK).* Notably, these requirements exceeded the requirements of the UK, where the premise of detailed statements of assets and liabilities were not introduced for banking associations until 1844. The *Freedom of Banking Act 1850 (Canada)*, extended upon these requirements further with the addition of contingent liabilities. It was 1844 when England raised similar financial accountability expectations in regard to the balance sheet with the passing of the *Joint Stock Banks Act 1844 (UK)*, *Joint Stock Companies Act 1844 (UK)* and the *Companies Clauses Consolidation Act 1845, (UK)*.

Colonial intervention in Canadian banks began with *The Mauritius Regulations (1830)* which were sent to Canada in 1833 by the British Treasury for future banking establishments (Shearer, 2005). The regulations align with paragraphs 78, 81 and 82 of the First Schedule, *Companies Act 1862 (UK)*. Financial accountability requirements of the paragraph 2 of *The Mauritius Regulations (1830)* required accounts to be published, and those accounts were to show the amount of debts and assets at the close of each half-year including notes in circulation, amount of specie and other assets. Conditions of the Mauritius Regulations were met, in part, with the passing of an *Act to prolong the*

Charter of the Quebec Bank 1831 *(QC)*, an *Act of Incorporation of the Commercial Bank of the Midland District 1832 (UC)* and an *Act of Incorporation of the Bank of Nova-Scotia 1832 (NS).* However, these acts required annual accounts, rather than half-yearly and there was no requirement for publication. Interestingly, financial accountability requirements of *The Mauritius Regulations (1830)* were ahead of the *Bank Notes Act 1826 (UK)*, which included minimal disclosure requirements on the Bank of England to provide a published account of notes in circulation of less than five pounds. After the new province of Canada was formed in 1841, the select committee on banking and currency recommended renewal of bank charters under the expectation that the charters accord with the *Colonial Banking Regulations (1840)* provided by the imperial government (Breckenridge, 1895). The 1840 regulations (amended 1846) were akin with *The Mauritius Regulations (1830)* in terms of financial accountability and included the requirement of banks to publish statements on the average amounts of the assets and liabilities either half-yearly or yearly.

As shown in Table 4, financial accountability in England was demonstrated with all banking enactments providing for balance sheet requirements and 45.5% of the banking enactments providing for profit and loss requirements. Table 5 shows that the enactments of England placed a high priority on the categories I1 Capital – shares, I2 Capital – amount paid per share, II6 Liabilities - debts owing, III7 Property - immovable property, IV9 Assets - debts owing to the bank - secured, IV10 Assets - debts owing to the bank – no security, and V13 Assets - cash – where lodged and if interest bearing, as key areas of financial accountability linked to paragraph 81 of the First Schedule, *Companies Act 1862 (UK).* As highlighted in Table 3, financial accountability in England varied across the period examined, increasing significantly in later years. The Bubble Act 1720 may in part explain the delay in mandatory financial

accountability requirements in England. Under this enactment, companies wanting to secure the benefits of association turned to the unincorporated partnership, otherwise known as the 'deed of settlement' company (Gower, 1953). These companies operated with unlimited liability under a mix of trust and equity law (Bathurst, 2013; Freeman et al, 2013). The articles and by-laws of these companies facilitated corporate governance and shareholder protection to varying degrees. However, while the provision of summary accounts at the general meetings gained prominence, a decline in accounting transparency from the 1820s arose, particularly on rules guiding inspection of account books (Freeman, et al. 2013). Various legislative mandates of financial accountability followed the repeal of the Bubble Act in 1825. In this respect,

> "statute law had a greater impact on the development of corporate governance than common law, although this becomes less true from the 1820s when English courts began overtly to uphold the constitutions of unincorporated companies, especially in cases of disputes between companies and defaulting shareholders (Freeman et al, 2013, p. 645)."

The *Bank Notes Act 1826 (UK)* imposed basic financial accountability requirements on the Bank of England under section 6 that link with paragraph 78, 81 and 82 of the First Schedule, *Companies Act 1862 (UK)*. The bank was required to provide a written account monthly of notes in circulation under five pounds as well as the total amount in circulation, with the account to be published in the London Gazette. The introduction of the *Bank of England Act 1833 (UK)* bought about increased financial accountability requirements on the Bank of England with section 8 of the Act requiring an account of bullion and securities belonging to the said governor and company, notes in circulation and deposits in the Bank of England to be sent weekly to the Chancellor of Exchequer. The accounts were to be consolidated monthly and averages compiled quarterly and published every month in the London Gazette. Other

banking institutions issuing promissory notes were compelled under the *Bank Notes Act 1833 (UK)* to maintain weekly accounts of the average amount of notes in circulation and from these accounts make up accounts quarterly to lodge at the London Stamp Office. As shown in Table 4, these enactments also link with paragraph 78, 81 and 82 of the First Schedule, *Companies Act 1862 (UK)*.

There was a substantial increase in financial accountability from 1844 with expectations of both a balance sheet and profit and loss account that link with paragraphs 78 to 82 of the First Schedule, *Companies Act 1862 (UK)*. The *Bank Charter Act 1844 (UK)* prescribed detailed financial accountability requirements on the Bank of England under section 6 with an account of bank assets and liabilities required weekly by the commissioners in prescribed form detailing the amount of the notes issued, bullion, securities, capital stock, deposits, and of amounts of government debt and securities. Accounts were to be published in the London Gazette. A further enactment in 1844, The *Joint Stock Banks Act 1844 (UK)* set out to regulate joint stock banks in England. Under section IV of the Act, the deed of partnership required the inclusion of certain provisions. Paragraph 6 detailed minimum requirements of monthly published accounts showing the assets and liabilities of the company, whilst paragraph 8 required the communication of a balance sheet and profit and loss statement to shareholders yearly. The *Joint Stock Companies Act 1844 (UK)* was passed on the same date as the *Joint Stock Banks Act 1844 (UK)*. The Act led to reforms in companies' legislation introducing mandatory financial accountability requirements focused on the balance sheet and communication of the balance sheet to shareholders annually. Thereafter, the *Companies Clauses Consolidation Act 1845 (UK)* sought to establish clear guidelines around the provision of the balance sheet. Paragraph 116 stated that a balance sheet shall be made up with the inclusion of capital stock, credits, property and debts due by

the company as well as details on the profit or loss of the company. Paragraph 117 required the books and balance sheet to be available for inspection and paragraph 118 required the balance sheet to be presented at an ordinary meeting.

The Joint Stock Companies Act 1856 (UK) recommended regulations under Table B for the Memorandum of Association. If no other regulations were prescribed or if these provisions were not amended by the company, then these regulations were deemed to be the regulations of the company. The financial accountability requirements detailed under paragraphs 69 to 73 of Table B, required accounts to be kept including details of stock, sums and details of money received and expended, and credits and liabilities of the company. Further, directors were required to present a statement of income and expenditure and balance sheet annually at the general meeting. These were the same provisions that were replicated in paragraphs 78 to 82 of the First Schedule, *Companies Act 1862 (UK)*. A milestone in English banking history, *The Joint Stock Banking Companies Act 1857 (UK)* allowed banks to register under general companies' legislation, with unlimited liability. Financial accountability requirements did not change with assent of the *Joint Stock Companies Act 1857 (UK)*. Limited liability was provided to banks with the passing of the *Joint Stock Banks Act 1858 (UK)*. The Act included specific financial accountability provisions on banks under Section 4. Limited joint stock banking companies were required to provide a financial statement in specified form bi-annually of the liabilities and assets of the company. These requirements were additional to the 1856 and 1857 Companies Acts and were similar to those detailed in paragraph 44 of the *Companies Act 1862 (UK).*

6. Conclusion

Regulated financial accountability differed in the US, Canada and England during the late eighteenth and early nineteenth century. However, it converged by the mid-

nineteenth century. Evidence suggests that expectations of formal accounts raised in the *Companies Act 1862(UK)* were informed by external regulatory sources such as from the US and Canada as well as from local regulatory sources in England. Consistent with the tenets of legal origins, the relationship between the US, Canada and England suggests a reciprocal transfer of legislative ideas between former colonies and coloniser. The *Bank Notes Act 1826 (UK)* and *Bank Notes Act 1833 (UK)* prompted an account of monthly notes in circulation which eventually formed part of the balance sheet proforma recommended by paragraph 81 of the First Schedule, *Companies Act 1862 (UK)*. The Canadian *Mauritius Regulations 1830* instituted the advent of liability to stakeholders paralleled by Figure 1, balance sheet item II. The *Mauritius Regulations 1830* also required an account of debts and assets as later required by paragraphs 81 and 82 of the First Schedule in the *Companies Act 1862 (UK)*.

Section 8 of the *Bank of England Act 1833 (UK)* extended the disclosure requirement of notes in circulation to include bullions, securities and deposits as required by II6 Liabilities - debts owing, IV9 Assets - debts owing to the bank – secured, IV 10 Assets – debts owing to the bank – no security and V13 Assets - cash – where lodged and if interest bearing, in the balance sheet proforma of the *Companies Act 1862 (UK)*. However, of greater significance was the *Bank Charter Act 1844 (UK)* which required an account of the amount of the Bank of England notes issued by the Issue Department, of gold and silver bullion, of securities, capital stock and deposits and of money and securities belonging to the Governor and Company in the Banking Department. The Act brought the UK banks in line with US financial accountability requirements which existed as early as 1791 in the charter of incorporation of the first Bank of the United States. In the same year, the *Joint Stock Banks Act 1844 (UK)*

imposed minimum conditions on banking associations which included an account of assets and liabilities.

The *Colombia Banking Act 1817 (CO)* was specifically referred to by the UK in reviewing deficiencies of *The Country Bankers Act 1826 (UK)* and appears to have directly informed the need for communication and publication of a balance sheet which were requirements incorporated into the *Joint Stock Banks Act 1844 (UK)*. Combined, the 1844 Acts appear to have informed I Capital, II Debts and liabilities, III Property, IV Debts owing to the bank and V Cash and Investments, of the balance sheet in paragraph 81 of the First Schedule, *Companies Act 1862 (UK)*. The *Joint Stock Banks Act 1844 (UK)* also required a profit and loss statement, the precursor of the requirements imposed on banks by paragraphs 78, 79 and 80 of the First Schedule, in the *Companies Act 1862 (UK).* The concept of profit in the banking industry was seen as early as 1795 in the US when in Maryland the state passed *An Act to establish a bank, and incorporate subscribers thereto 1795 (MD)*.

This study has explored the passage of financial accountability provisions in banking legislation of the US, Canada and England. The reasons for US led innovations in regulated financial accountability and the extent of legislative adoption by banks are indeed areas for future research. For example, the proportionality of the uptake of UK banks into the financial accountability provisions of the *Companies Act 1862 (UK)* in comparison with the US and Canadian banks could be considered. Further, the take-up of provisions over time could be explored to see if banks adopted new practice. Given that the results of this study and evidence from Hansard point towards the possibility of causality of US and Canadian banking law and UK banking law, future research might consider the extent of causality across discrete passages of time during the eighteenth and nineteenth century.

Acknowledgements

The authors would like to acknowledge the contribution of an Australian Government Research Training Program Scholarship in supporting this research. Further, we are grateful to the anonymous referees of this journal who provided valuable feedback for the manuscript.

Disclosure statement

No potential conflict of interest was reported by the authors.

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Appendix 1: Number of US State enactments included in this study

No.	State	Colony or Territory	State	Count
1	Alabama	1818	1819	8
2	Arkansas	1818	1836	3
3	California		1849	0
4	Colorado	1859	1876	0
5	Connecticut	1676	1776	13
6	Delaware	1700	1786	4
7	Florida	1822	1845	19
8	Georgia		1735	10
9	Hawaii	1845	1959	0
10	Illinois	1809	1818	6
11	Indiana	1801	1816	4
12	Iowa	1838	1846	3
13	Kansas	1855	1861	1
14	Kentucky		1792	8
15	Louisiana	1804	1812	4
16	Maine		1820	5
17	Maryland	1692	1788	25
18	Massachusetts	1661	1789	53
19	Michigan	1806	1837	18
20	Minnesota	1850	1858	1
21	Mississippi	1799	1817	3
22	Missouri	1813	1820	3
23	Nebraska	1855	1867	6
24	Nevada	1861	1864	0
25	New Hampshire	1696	1788	4
26	New Jersey	1703	1787	41
27	New Mexico	1846	1912	0
28	New York	1691	1776	17
29	North Carolina	1715	1789	22
30	Ohio	1788	1803	6
31	Oregon	1841	1859	0
32	Pennsylvania	1700	1787	31
33	Rhode Island	1636	1790	33
34	South Carolina	1694	1788	6
35	Tennessee	1792	1796	11
36	Texas	1836	1845	0
37	Utah	1851	1896	0
38	Vermont	1778	1791	29
39	Virginia	1661	1776	18
40	Washington	1854	1889	0
41	West Virginia	1861	1863	0
42	Wisconsin	1836	1848	6
			Total	**421**

Appendix 2: United States Legislation

Federal Legislation

An Act to incorporate the subscribers to the Bank of the United States 1791 (US)

An Act to incorporate the subscribers to the Bank of the United States 1816 (US)

An Act to incorporate the subscribers to certain banks in the District of Colombia, and to prevent the circulation of the notes of unincorporated associations within the said district 1817 (CO) (*Referred to as: Colombia Banking Act 1817 (CO)*)

An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof 1864 (US) (*Referred to as: The National Bank Act 1864 (US)*)

State Legislation

An Act to establish a bank, and incorporate the subscribers thereto 1795 (MD)

An Act to establish a bank, and incorporate the subscribers thereto 1811 (TN)

An Act establishing the State Bank of Illinois 1820 (IL)

An Act establishing a state bank 1834 (IN)

An Act to charter the bank of the State of Missouri 1837 (MO)

An Act to provide for an investigation of the condition of the banks of this state, and for other purposes 1837 (NJ)

An Act to organize and regulate banking associations 1837 (MI) (*Referred to as: Michigan Act 1837 (MI)*)

An Act to authorize the business of banking 1838 (NY) (*Referred to as: New York Free Bank Act 1838 (NY)*)

An Act concerning the banks of this Commonwealth 1842 (VA)

An Act to abolish the office of bank commissioner, and for other purposes 1843 (NY)

An Act to authorise the business of banking 1852 (WI)

An Act to authorise the business of banking 1858 (MN)

An Act to authorise the business of banking 1861 (KS)

Appendix 3: Canadian Legislation

An Act to incorporate sundry persons by the name of the president, directors and company of the Bank of New Brunswick 1820 (NB)

An act to incorporate sundry persons under the system and title of the president, directors and company of the bank of Upper Canada 1821 (UC) (Referred to as: *Bank of Upper Canada Act 1821 (UC)*)

The Mauritius Regulations 1830

An Ordinance to prolong the term of the Royal Charter incorporating the Quebec Bank, and to make further provision for the government and management of the said bank 1831 (QC) *(Referred to as: Act to prolong the Charter of The Quebec Bank 1831 (QC))*

An Act to incorporate certain persons under the style and title of the president, directors and company of the Commercial Bank of the Midland District 1832 (UC) (*Referred to as: Act of Incorporation of the Commercial Bank of the Midland District 1832 (UC)*)

An Act to incorporate sundry persons by the name of the president, directors and company of the Bank of Nova-Scotia 1832 (Referred to as: *Act of Incorporation of the Bank of Nova-Scotia 1832 (NS)*)

An Ordinance to regulate private banking, and the circulation of the notes of private bankers 1839 (LC) (Referred to as: *An ordinance to regulate private banking 1839 (LC))*

Colonial Banking Regulations 1840 (UK)

Colonial Banking Regulations (Amended) 1846 (UK)

An Act to establish freedom of banking in this Provence and for other purposes relative to banks and banking 1850 (CA) *(Referred to as: Freedom of Banking Act 1850 (CA))*

Appendix 4: UK Legislation

An Act to limit, and alter a certain period to prohibit, the issuing of promissory notes under a limited sum in England 1826 (UK) (*Referred to as: Bank Notes Act 1826 (UK)*)

An Act to compel banks issuing promissory notes payable to bearer on demand to make returns of their notes in circulation, and to authorize banks to issue notes payable in London for less than fifty pounds 1833 (UK) (Referred to as: *Bank Notes Act 1833 (UK)*)

Bank of England Act 1833 (UK)

Bank Charter Act 1844 (UK)

An Act for the registration, incorporation, and regulation of joint stock companies 1844 (UK) (Referred to as: *Joint Stock Companies Act 1844 (UK)*)

An Act to regulated joint stock banks in England 1844 (UK) (Referred to as: *Joint Stock Banks Act 1844 (UK)*)

An Act for consolidating in one Act certain provisions usually inserted in Acts with respect to the constitution of companies incorporated for carrying on undertakings, of a public Nature 1845 (UK). (Referred to as: *Companies Clauses Consolidation Act 1845 (UK)*)

An Act for the incorporation and regulation of joint stock companies and other associations 1856 (UK) (Referred to as: *Joint Stock Companies Act 1856 (UK)*)

Act to amend the Joint stock companies Act, 1856. (Referred to as: *Joint Stock Companies Act 1857 (UK)*)

An Act to amend the law relating to banking companies 1857 (UK).(Referred to as: *Joint Stock Banking Companies Act 1857 (UK)*)

An Act to enable joint stock banking companies to be formed on the principle of limited liability 1858 (UK) (Referred to as: *Joint Stock Banks Act 1858 (UK))*

An Act for the incorporation, regulation, and winding-up of trading companies and other associations 1862 (UK) (Referred to as: *Companies Act 1862 (UK))*

Figure 1. ***Companies Act 1862 (UK)*****. Balance sheet presentation.**

Dr. BALANCE SHEET of the Co. made up to 18 . Cr.

CAPITAL AND LIABILITIES.			£ s. d.		PROPERTY AND ASSETS.			£ s. d.	£ s. d.
I. CAPITAL -		*Showing:*			III. PROPERTY held by the Company.		*Showing:*		
	1.	*The Number of Shares* - -				7.	*Immovable Property, distinguishing—*		
	2.	*The Amount paid per Share* -					*(a.) Freehold Land* - -		
	3.	*If any Arrears of Calls, the Nature of the Arrear, and the Names of the Defaulters.*					*(b.) „ Buildings* - -		
							(c.) Leasehold „ - -		
	4.	*The Particulars of any forfeited Shares*				8.	*Movable Property, distinguishing—*		
							(d.) Stock in Trade - -		
II. DEBTS AND LIABILITIES of the Company.		*Showing:*					*(e.) Plant* - - -		
	5.	*The Amount of Loans on Mortgages or Debenture Bonds.*					*The Cost to be stated with Deductions for Deterioration in Value as charged to the Reserve Fund or Profit and Loss.*		
	6.	*The Amount of Debts owing by the Company, distinguishing—*			IV. DEBTS owing to the Company.		*Showing:*		
		(a.) Debts for which Acceptances have been given.				9.	*Debts considered good for which the Company hold Bills or other Securities.*		
		(b.) Debts to Tradesmen for Supplies of Stock in Trade or other Articles.				10.	*Debts considered good for which the Company hold no Security.*		
		(c.) Debts for Law Expenses.				11.	*Debts considered doubtful and bad* -		
		(d.) Debts for Interest on Debentures or other Loans.					*Any Debt due from a Director or other Officer of the Company to be separately stated.*		
		(e.) Unclaimed Dividends.							
		(f.) Debts not enumerated above.							
VI. RESERVE FUND.		*Showing:* *The Amount set aside from Profits to meet Contingencies.*			V. CASH AND INVESTMENTS.		*Showing:*		
						12.	*The Nature of Investment and Rate of Interest.*		
VII. PROFIT AND LOSS.		*Showing:* *The disposable Balance for Payment of Dividend, &c.*				13.	*The Amount of Cash, where lodged, and if bearing Interest.*		
CONTINGENT LIABILITIES		*Claims against the Company not acknowledged as Debts.* *Monies for which the Company is contingently liable.*							

Source: Companies Act 1862 (UK), First Schedule 'Accounts', paragraph 81.

Table 1. Number of legislative enactments included in sample.

	Number of enactments for each jurisdiction			
	United States	**England**	**Canada**	**Total**
Federal - General	9	11	6	26
State - Individual Bank Acts	421	0	56	477
Total	**430**	**11**	**62**	**503**

Table 2. *Companies Act 1862 (UK)*. First Schedule, Paragraphs 78 to 82 'Accounts'.

Para.	Provision	Focus of Account and Financial Accountability
78	The Directors shall cause true Accounts to be kept, -- Of the Stock in Trade of the Company ; Of the Sums of Money received and expended by the Company, and the Matter in respect of which such Receipt and Expenditure takes place ; and, Of the Credits and Liabilities of the Company : The Books of Account shall be kept at the registered Office of the Company, and, subject to any reasonable Restrictions as to the Time and Manner of inspecting the same that may be imposed by the Company in General Meeting, shall be open to the Inspection of the Members during the Hours of Business.	Balance Sheet assets Statement of Income and Expenditure Balance Sheet credits and liabilities Accountability of time and manner of inspection
79	Once at the least in every Year the Directors shall lay before the Company in General Meeting a Statement of the Income and Expenditure for the past Year, made up to a Date not more than Three Months before such Meeting.	Statement of Income and Expenditure Timely accountability to stakeholders
80	The Statement so made shall show, arranged under the most convenient Heads, the Amount of gross Income, distinguishing the several Sources from which it has been derived, and the Amount of gross Expenditure, distinguishing the Expense of the Establishment, Salaries, and other like Matters : Every Item of Expenditure fairly chargeable against the Year's Income shall be brought into Account, so that a just Balance of Profit and Loss may be laid before the Meeting ; and in Cases where and Item of Expenditure which may in Fairness be distributed over several Years has be incurred in any One Year the whole Amount of such Item shall be stated, with the Addition of the Reasons why only a Portion of such Expenditure is charged against the Income of the Year.	Statement of Income and Expenditure
81	A Balance Sheet shall be made out in every Year, and laid before the Company in General Meeting, and such Balance Sheet shall contain a Summary of the Property and Liabilities of the Company arranged under the Heads appearing in the Form annexed to this Table, or as near thereto as Circumstances admit. (see Figure 1)	Balance Sheet
82	A printed Copy of such Balance Sheet shall, Seven Days previously to such Meeting, be served on every Member in the Manner in which Notices are herein-after directed to be served.	Balance Sheet Timely accountability to stakeholders

Table 3. Summary of paragraphs 78 to 82 by country and by 10-year intervals

Section	Year	Number of enactments by jurisdiction		
		United States	England	Canada
78	1791-1800	15		
	1801-1810	42		
	1811-1820	78		1
	1821-1830	46	1	6
	1831-1840	125	2	12
	1841-1850	36	4	10
	1851-1862	88	4	33
	TOTAL	**430**	**11**	**62**
79	1791-1800	1		
	1801-1810	4		
	1811-1820	5		
	1821-1830	0		
	1831-1840	15		
	1841-1850	4	2	
	1851-1862	3	3	
	TOTAL	**32**	**5**	**0**
80	1791-1800	1		
	1801-1810	4		
	1811-1820	5		
	1821-1830	0		
	1831-1840	15		
	1841-1850	4	2	
	1851-1862	3	3	
	TOTAL	**32**	**5**	**0**
81	1791-1800	9		
	1801-1810	32		
	1811-1820	55		1
	1821-1830	30	1	6
	1831-1840	95	2	11
	1841-1850	32	4	10
	1851-1862	62	4	32
	TOTAL	**315**	**11**	**60**
82	1791-1800	9		
	1801-1810	32		
	1811-1820	55		1
	1821-1830	30	1	6
	1831-1840	95	2	11
	1841-1850	32	4	10
	1851-1862	62	4	32
	TOTAL	**315**	**11**	**60**

Table 4. Summary of number of enactments aligned with Paragraphs 78 to 82 First Schedule, Companies Act 1862 (UK)

Paragraph	Number and percentage of enactments for each jurisdiction		
	United States	England	Canada
78 – Accounts to be kept	430 (100%)	11 (100%)	62 (100%)
79 – Timeliness of Statement of Income and Expenditure	32 (7.4%)	5 (45.5%)	0 (0%)
80 – Statement of Income and Expenditure	32 (7.4%)	5 (45.5%)	0 (0%)
81 – Balance Sheet	315 (73.3%)	11 (100%)	60 (96.8%)
82 – Timeliness of Balance Sheet	315 (73.3%)	11 (100%)	60 (96.8%)

Note: Percentages equal the number of enactments of a jurisdiction that satisfied a paragraph (78 to 82) of the First Schedule, Companies Act 1862, divided by the total number of enactments of that jurisdiction.

Table 5. Comparative analysis of enactments aligned with Paragraph 81 First Schedule, Companies Act 1862 (UK)

Paragraph 81 First Schedule, Companies Act 1862 Components	Number and percentage of enactments for each jurisdiction		
	United States (430)	England (11)	Canada (62)
I 1 Capital – number of shares	262 (60.9%)	8 (72.7%)	34 (54.8%)
I 2 Capital - amount paid per share	262 (60.9%)	8 (72.7%)	34 (54.8%)
I 3 Capital - calls of arrears	8 (1.9%)	3 (27.3%)	0 (0%)
I 4 Capital - forfeited shares	0 (0%)	3 (27.3%)	0 (0%)
II 5 Liabilities - loans on mortgages and debenture bonds	173 (40.2%)	6 (54.5%)	60 (96.8%)
II 6 Liabilities - debts owing	313 (72.8%)	11 (100%)	60 (96.8%)
III 7 Property - immovable property	135 (31.4%)	7 (63.6%)	52 (83.9%)
III 8 Property - movable property	70 (16.3%)	6 (54.5%)	33 (53.2%)
IV 9 Assets - debts owing to the bank - secured	289 (67.2%)	9 (81.8%)	60 (96.8%)
IV 10 Assets - debts owing to the bank – no security	289 (67.2%)	9 (81.8%)	60 (96.8%)
IV 11 Assets - debts owing to the bank – doubtful and bad	35 (8.1%)	3 (27.3%)	38 (61.3%)
V 12 Assets - investments and interest rate	80 (18.6%)	6 (54.5%)	21 (33.9%)
V 13 Assets - cash – where lodged, and if interest bearing	296 (68.8%)	8 (72.7%)	60 (96.8%)
VI Reserve Fund – amount set aside from profit	41 (9.5%)	3 (27.3%)	38 (61.3%)
VII Profit and Loss – balance for dividend payment	61 (14.2%)	5 (45.5%)	39 (62.9%)
Contingent Liabilities	11 (2.6%)	3 (27.3%)	1 (1.6%)

Note: Percentages equal the number of enactments of a jurisdiction that satisfied a component of Paragraph 81 of the First Schedule, of the Companies Act 1862, divided by the total number of enactments of that jurisdiction.

7.3 Publication 3: *Accountability and financial statement presentation of early Western Australian banks, 1837–1880*

Game, C. S., Cullen, L. M., & Brown, A. M. (2018). Accountability and financial statement presentation of early Western Australian banks, 1837–1880. *Accounting History*, *23*(4), 555-574.

Accountability and financial statement presentation of early Western Australian banks: 1837-1880

Abstract

This study uses legal origin theory to consider the influence of the British imperial government on financial statement presentation of early Western Australian banks. Accountability and patterns of financial presentation were explored through an examination of 192 quarterly returns and three annual returns for the Bank of Western Australia, Western Australian Bank and National Bank of Australia over the years 1837 to 1880. Findings from the study suggest the banks demonstrated a willingness to prepare forms of Western-narrow and Western-broad accounts. Early Western Australian banks consistently prepared timely financial statements to keep stakeholders informed of the banks' quarterly returns. Despite the harsh economic conditions, Western Australian banks appeared to keep pace with the changing legal, political and fiscal accountability reforms carried out by the colonial government during this early settlement period of Western Australia.

Keywords

Western Australian banks, financial statement presentation, accountability, legal origin theory

Introduction

This study analyses the financial statement presentation of early Western Australian (WA) banks between 1837 and 1880, a period commencing shortly after settlement in 1829 and ending just before the formation of responsible government in 1890. The

period straddles the enactments of the *Banks 1837 (WA)* Act and *The Joint Stock Companies Ordinance 1858 (WA)*, which represented critical forms of British imperial government accountability that informed early WA banks' financial statement presentation.

Banks were seen as important for the early economic development of the WA colony, and financial statements were almost certainly used as a basis for the decision-making by government and private investors in the colonial period (Bunn and Gilchrist, 2013). If accountability is interpreted as representing an account of operations to its stakeholder groups, then reporting and financial statement presentation may be seen as informing a specialised readership about the underlying business transactions through accounting techniques.

During the nineteenth century, financial statement presentation was a subject of considerable interest to entities and governments of the United States (US) and United Kingdom (UK) (Hoag, 2015; Jones and Aiken, 1994; Lloréns, 2004; Parker, 1990) and in the more established eastern Australian colonies of New South Wales (NSW), Tasmania, Victoria and Queensland (Morris, 1984). Indeed, government and private investors in the US were concerned about financial statement presentation in the Free Banking Era (1837–1862) and the National Bank Era (1863–1913) (Hoag, 2015). In the UK between 1840 and 1880 the importance of the presentation of balance sheets was heralded as a form of financial accountability (Collins, 1984).

The need for financial accountability might also explain the generation of financial statements presented by the early east-coast banks of Australia (Blainey and Hutton, 1983; Butlin, 1961, 1968; Johns and Ville, 2012). From 1830, early NSW banks were expected to disclose the monetary amounts of average note issues (Butlin,

1968). Those early NSW banks that sought government deposits were also required to submit a half-yearly balance sheet to the colonial Governor for government scrutiny (Butlin, 1968). From 1832, regular reporting on the holding of coins by banks began. Then, in 1840, the British Colonial Office introduced regulations on early east-coast banks that imposed restrictions on the banks' maximum debt to equity ratio, lending policies, dividend pay-outs and half-yearly and yearly publication of a return in the same form as the Australasia charter model (Butlin, 1968; Morris, 1984). However, Governor Gipps of NSW ignored these imposed restrictions by introducing a disclosure rule [4 Vic. No. 13] which required quarterly published returns of assets and liabilities based on averages from weekly records with the added inclusions of capital paid-up, the last dividend declared and reserved profits at the time of dividend declaration (Morris, 1984).

Apart from Butlin's (1968) work on the development of WA's monetary system, very little research has been conducted on the development of the reporting of early WA banks. The current study aims to bridge this gap and complement the narrative on the development of banks in Australia by providing an overview of banking accountability in WA at the time of early colonial settlement. In this context, the study illuminates how WA banking institutions were able to function as an accountable going concern, despite the harshest economic difficulties of early settlement. Further, with the assistance of Peng and Brown's (2016) spectrum of alternative reporting models, the study provides evidence of the systematic application of legal origin theory to the published financial accounts of WA banks in the context of transplanted laws.

The assumptions of legal origin theory as an explanation for the acceptance by British colonies of transplanted financial statements has wide support (Bushman,

Piotroski and Smith, 2004; Jaggi and Low, 2000). There appears to be evidence that countries adopting English law were able to enhance their creditor and shareholder protection which influenced the development of accounting systems, accounting information and disclosure practices (Jaggi and Low, 2000; Hope, 2003; La Porta, et al., 1997). According to legal origin theory, this milieu of accountability built up by the imperial nation's specific rules, regulations, laws and institutions had the potential to make a profound influence on the take up of accountability by institutions of outside colonies (Deakin, 2009; Fernández and Tamayo, 2017; Gibson, 2011).

> The influx of British people and the corresponding inflow of British capital resulted in the importation of accounting techniques, institutions, and concepts from Britain in what has been described as the transfer of accounting technology. Accounting, like other technologies, was transferred to Australia as part of British colonisation (Carnegie, 2009: 277).

However, not all entities operating in British colonies readily accepted imposed reporting techniques and regulations from Britain (Peng and Brown, 2015, 2017). This arose because some entities preferred to take up Traditional reporting mechanisms (see Table 2), which, in deference to communal customs, attempted to provide oral reports or:

> generate written reports for stewardship but raised an 'accountability of undecided space' in the sense that it was not always clear which elite group or entity the entity was directed towards (Peng and Brown, 2016: 1185).

Just as accountability processes within Indigenous communities were in place long before China and the Pacific Island Countries were influenced by the West (Brown, 2011; Peng and Brown, 2016), "accountability processes within Indigenous communities were in place long before Australia was colonized" (Lombardi, 2016:

1321). In China, the Traditional reporting model was informed by a sophisticated and literate culture with its own accounting tradition (Peng and Brown, 2015). In the Pacific Island Countries and Australia, the Traditional reporting models were also informed by a sophisticated but non-literate culture embedded within their own accounting traditions (Brown, 2011; Lombardi, 2016). Australian Aboriginal accounting systems were grounded on value based on cultural laws through such mechanisms as rituals, kinship, myths, oral archives and natural laws (Elkin, 1974; Martin, 2005), a Traditional reporting system very different to the West's understanding of reporting (Gallhofer, Gibson, McNicholas and Takiari, 2000).

Those entities operating in the colonies that did embrace introduced reporting and regulations from Britain produced either Western-narrow reports (financially-focussed), Western-broad reports (societal and financially-focussed) or hybrid reports (a melding of Traditional, Western-narrow and Western-broad reporting) (Peng and Brown, 2016). As each reporting model brought about a different form of accountability, a critical contribution of this study of early financial statements of WA banks is to consider the legal origins of early bank reporting in terms of the adoption of alternative reporting models and accompanying accountability. It is salient to point out here that in contrast to the overwhelming focus in the past of using legal origin theory to explain the systemic adoption of the imperial nation's specific rules, regulations, laws and institutions, this study uses legal origin theory to explain the pattern of accountability of the early reporting of banking entities operating in the WA colony. With this in mind, the following research question is presented:

> What patterns of accountability were evident in the early financial statements of WA banks from 1837 to 1880?

The paper is structured as follows. The next section presents an overview of legal origin theory. This is followed by an account of the background to this research presenting a historical account of the growth of the colony of WA and the rise of the WA banking industry. A chronological glimpse of the banking financial statement initiatives taken up by WA and other colonies is elaborated. In addition, the legal, fiscal and political environments of the colonies and British imperial government during the period of the study are described. Further, the constructs of legal origin theory are appraised and considered as an explanation for the adoption of specific patterns and forms of financial statement presentation by early banks of WA. Following this, the methodological foundation of the study is outlined. Results of the textual analysis for three WA banks are then presented followed by the conclusion of the study.

Theoretical approach

Legal origin theory enquires into the historical trajectory by which a country's laws and legal institutions have been developed (Mahy, 2012). The theory posits that legal traditions of the 'origin' country transfer to the 'transplant' country as a result of colonisation or conquest (Fairfax, 2009). Legal traditions effectively characterise origin and transplant countries into legal families, with common law and civil law being the most dominant (Glaeser and Shleifer, 2002). Common law represents the law of England and is made up of judicial precedents broadening over time whereas civil law being the oldest and most widely distributed, is primarily based on the French civil law tradition governed by doctrines developed by legal scholars (Glaeser and Shleifer, 2002). A country's legal family is said to influence not only its laws and legal

institutions but also how they respond to economic, political and social challenges (Fairfax, 2009).

The term 'legal transplant' originates from the works of Alan Watson on comparative law (Gibson, 2011). The legal transplant process provides that the laws should have a clear meaning that can be detached and transferred between legal systems and that those laws must have a functional purpose that provides a practical benefit to society (Gibson, 2011). In line with this process, British legal-institutions were homogeneously implanted across Australia on colonisation (Berkowitz, Pistor and Richard, 2003). British migrants were also familiar with the basic principles of British laws (Berkowitz et al, 2003).

> In sparsely populated territories with a favourable disease environment, the common law was extensively implanted and fitted well with the colonial society. This led to a more intense legal-institutional transfer, which made it possible to develop a legal system that is comparable in many respects to the British one. In these cases, the positive features associated with the common law are expected to prevail, and therefore the legal system can provide good protection of investor and creditor rights as well as be efficient at enforcing private contracts and debts (Oto-Peralias and Romero-Àvila, 2014: 573).

The level of investor and creditor rights across a number of countries with varied legal origins was the subject of pioneer studies by La Porta, et al. (1997, 1998). These studies observed that common law countries were associated with stronger investor and creditor protection than civil law countries. This finding raised a branch of accounting research focussed on the extent to which these factors influenced accountability practices of the business enterprise (e.g. Jaggi and Low, 2000; Hope, 2003). Through the lens of Western-narrow and Western-broad reporting this study considers the influence of legal origin theory in ascertaining the pattern of accountability produced by

early financial statements of WA banks from 1837 to 1880.

History of the colony of WA and the rise of the banking industry

As shown in Table 1, which depicts the major events of the period between 1828 and 1892 and their impact on WA banking, British laws and accompanying legal accountability were imposed on WA with the establishment of WA as a Crown Colony in 1829 (Castles, 1963). The intent of the arrangement between the British government and private investors of the newly established colony was:

> to transplant the best of British rural society; it was to be commanded by gentlemen of means and populated by yeoman farmers and industrious working families (Ford and Roberts, 2013:136).

In 1828 Peter Broun was appointed as the first Colonial Secretary (and acting Treasurer) of WA setting up an early form of fiscal accountability in terms of the stewardship of government funds (Uren, 1966). Broun was given the responsibility for administering public funds and had the authority to offer limited banking services to the colony (Uren, 1966). A further step in augmenting accountability arose in 1832 with the appointment of a Colonial Treasurer whose task was to render an account of the WA colony's revenue and expenditure (Bunn and Gilchrist, 2013). As shown in Figure 1, which depicts the key developments in bank regulations and events in the colony, the British pound had already been confirmed as the primary currency of the Australian colonies with the colonies' adoption of the British *Sterling Silver Currency Act 1825 (UK)*. This enactment paved the way for meaningful financial statements with a uniform monetary valuation for the measurement of all elements of the statements. This adoption of a uniform currency represented an early form of "legal transplant".

Table 1: Key events.

Year	Major events	Impact on WA banking
1828	British government approves colonisation of WA.	Arrangements for settlement of the colony of WA begins with the first settlers to arrive in 1829.
	Peter Broun appointed as Colonial Secretary (and Acting Treasurer).	Setup an early form of fiscal accountability in the colony of WA in terms of the stewardship of government funds.
1829	WA established as a Crown colony.	British laws and accompanying legal accountability were imposed on WA.
1832	Colonial Treasurer appointed.	Expansion of fiscal accountability requirements led to segregation of Colonial Secretary and Treasurer duties.
1830s	Economic difficulties associated with land distribution, food shortages, limited capital and lack of labour.	Created a need for formal monetary facilities in the colony of WA.
1837	The Bank of Western Australia established.	Banking facilities welcomed into the colony of WA at a time when access to capital was limited.
1840	Bank of Australasia merged with The Bank of Western Australia.	The Bank of Australasia (an English bank) gained a foothold into the banking sector in the colony of WA.
1841	The Western Australian Bank established.	A dislike of foreign ownership in the Bank of Australasia led to the opening of the Western Australian Bank, creating competition within the banking sector in the colony of WA.
1843-44	Recession in the colony of WA.	Impacted on economic development of the colony and on the performance of business entities.
1845	Bank of Australasia closed.	The Western Australian bank was left as the sole provider of banking facilities in the colony of WA.
1850	Convict transportation began.	Start of significant economic growth in the colony of WA. The most significant contribution of convicts to WA's economic growth during the initial stages related to the supply of labour for public works with a majority entering either the pastoral or the extractive industries.
1863	Post Office Savings Bank established.	Monopoly of the Western Australian bank became a duopoly.
1866	National Bank of Australasia established.	Duopoly of banking in the colony of WA ends enhancing competition in the sector.
1868	Convict transportation ended.	Accelerated rates of growth end. Between 1850 and 1868, total exports increased from £22,135 to £192,636 and total imports increased from £62,351 to £225,614. Population increased from 5,886 in 1850 to 24,292 in 1868.
1870	Representative government formed.	In a demonstration of reformed political and legal accountability, WA gained representative government with a Legislative Council structure comprising six individuals nominated by the Governor and 12 elected individuals
1878	Union Bank of Australasia branch opens.	Increased competition in the banking sector.
1885	Gold discoveries Kimberley region.	Triggered significant economic and demographic growth.
1888	Commercial Bank of Australia branch opens	Increased competition in the banking sector.
1890	Responsible government formed.	The existing unicameral legislature of WA became bicameral, a two chamber parliament with a Legislative Assembly formed.
1893	Further gold discoveries in Kalgoorlie region.	Continued economic and demographic growth. Population increased from 53,177 in 1891 to 100,515 in 1895. Large capital works projects in roads, railways and construction followed.

References: Appleyard, 1981; Barnes and Newton, 2014; Butlin, 1961; de Garis, 1981; Department of Treasury and Finance, 2004; O'Connell, 2014; Preece, 2002; Statham, 1981; Uren, 1966.

Banking facilities in the colony of WA were highly sought after by settlers from early colonisation; however, the small size of the colony was an impediment to attracting overseas banking investment (Butlin, 1968). This resulted in a reliance on savings from colonial households to fund share ownership in WA's first bank, the Bank of Western Australia in 1837 (Statham, 1981). Colonists hoped that the era of rapid advance, wealth and prosperity that followed the establishment of banks in the Eastern Australian colonies would similarly unfold in WA ("The Bank of Western Australia", 1837). The establishment of the bank coincided with legislative moves to govern banking operations in the colony of WA (Medcalf, 1967). The assent of the *Banks 1837 (WA)* Act imposed a form of legal accountability on banking entities through explicit forms of financial statement presentation to carry on the:

> trade and business of bankers in WA, and to make and issue their bills or notes payable on demand, or otherwise; and to borrow, owe, or take up any sum or sums of money on their bills, or notes so made, or issued (*Banks 1837 (WA) Act*, s.1*)*.

The instituting of banking bills and notes and accompanying legal accountability for the presentation of financial statements was welcomed at a time when economic growth of the WA colony was limited due to a lack of available capital and investment in local production and exports (Department of Treasury and Finance, 2004). The *Banks 1837 (WA)* Act may be seen as another early example of the influence of legal origins, as the Act was substantially framed on *The Country Bankers Act 1826 (UK)*. The aim of *The Country Bankers Act 1826 (UK)* was to stabilise the British banking system following the 1825/26 crisis by enabling joint stock banking as an industry (Barnes and Newton, 2014). The system of joint stock banking had already fared well in Scotland where joint stock banks had operated since 1810 (Newton and Cottrell, 1998). In

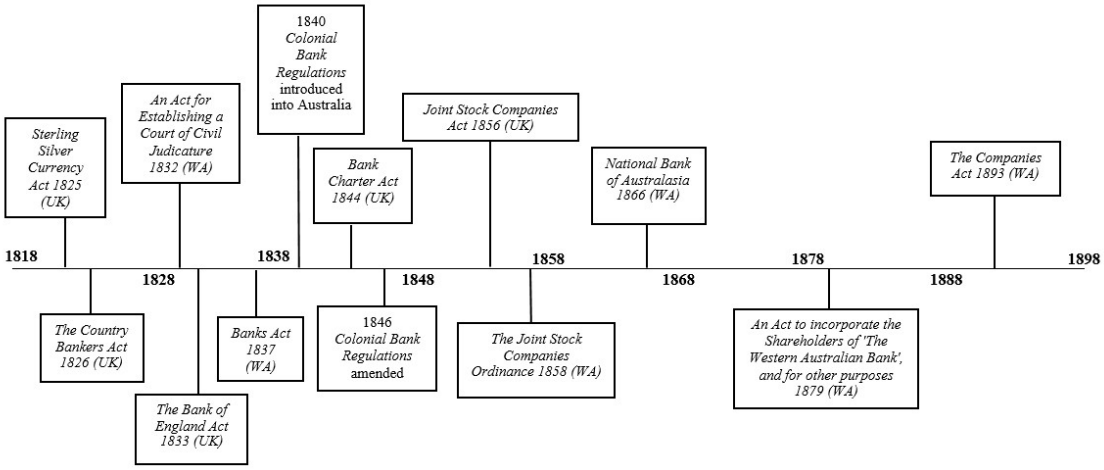
contrast to *The Country Bankers Act 1826 (UK)* which excluded any prescribed financial reporting requirements, Section 13 of the *Banks 1837 (WA)* Act required reporting entities to keep weekly accounts of average notes in circulation and of the amount of deposits, and from such weekly accounts make up quarterly returns. These account keeping requirements align with those contained in Section 8 of *The Bank of England Act 1833 (UK)*. Further legislation included minor amendments of the *Banks 1837 (WA)* Act in 1839 and 1841 (*Banks Amendment 1839 (WA);* and *Banks Amendment and Currency 1840 (WA))*.

To gain a foothold within the WA financial sector, the Bank of Australasia took over the Bank of Western Australia in 1840 (Butlin, 1968). This raised complaints from some shareholders of the Bank of Western Australia who were already concerned about the existence of overseas shareholders, with a majority of the bank's directors and shareholders being London-based. As a consequence, WA investors set out to establish a new bank with the Western Australian Bank commencing operations in 1841 (Butlin, 1961; Statham, 1981; Turner, 1997). In keeping with the civic-based duty to be accountable to the citizens of the colony of WA, the prospectus of the Western Australian Bank stated that the bank "aimed to be 'of the public for the good of the public'" (Turner, 1997: 389). The effect of the establishment of a second bank in the WA colony was to create increased competition in the banking sector forcing a decline in interest rates and increased demand for loans (Statham, 1981).

The British *Colonial Banking Regulations* were introduced into the Australian colonies in 1840 and provided a number of "rules and conditions" for implementation within chartered banks or banking legislation for the purpose of incorporation (Butlin, 1968: 545). Whilst a number of the 'rules' were not viewed favourably amongst

colonial banks, disclosure requirements were more positively received (Morris, 1984). Governor Gipps of NSW adopted an amended version of the disclosure rules to enact the *Bank Liabilities Publication Act 1840 (NSW)*. Under the Act banks were to make statements of weekly average liabilities and assets and from such accounts prepare quarterly statements to be lodged with the Colonial Secretary and published. The disclosure requirements, ultimately enacted in NSW, extended to Victoria, Queensland and South Australia at later dates, with a variation of the rules applied in Tasmania in 1841 (Morris and Barbera, 2015). The colonial bankers of WA were relatively less accepting of disclosure regulations particularly those targeting the publication of results. The colony of WA had only two banks at this time, the Bank of Australasia and the Western Australian Bank. The former was a chartered bank and the other was a colonial bank. . It was argued that the chartered bank could not be called upon to meet the disclosure restrictions under the proposed act, whereas the colonial bank would be compelled to abide ("Legislative Council", 1842). Indeed, a WA bill modelled on the tenets of the *Bank Liabilities Publication Act 1840 (NSW)* was flatly rejected.

Figure 1: Timeline.



The directors of the Bank of Australasia announced in mid-1845 its closure after succumbing to the faltering conditions of the colony and experiencing competitive pressure from the Western Australian Bank (Butlin, 1968). In 1846 the British Treasury amended its *Colonial Banking Regulations* of 1840 to include incorporation (for a period not exceeding 21 years) and a limitation on note issues up to the value of paid-up capital. On this occasion it was clearly represented to Colonial Governors that take-up of the regulations was expected. Notably, the WA Governor succeeded in securing a more extensive form of return from the Western Australian Bank (Butlin, 1968). Liability disclosures now distinguished between interest-bearing and non-interest bearing deposits and assets included new disclosures of cash, bills, cash credits and premises.

Assent of WA's first general companies' legislation, *The Joint Stock Companies Ordinance 1858 (WA)* brought about additional prescriptions of financial statement reporting to the colony of WA (Butlin, 1968). This represented a further form of legal transplant to the Australian colonies because "as a function of colonization" (Gibson,

2011: 49) legal origin theory suggests legal transplants such as the *Joint Stock Companies Act 1856 (UK)* which informed *The Joint Stock Companies Ordinance 1858 (WA)*, offered wide-ranging forms of accountability such as shareholder protection, enhanced market capitalisation, potentialities for economic growth, and "lower legal formalism" (Oto-Peralias and Romero-Avila, 2014: 562). Like the *Joint Stock Companies Act 1856 (UK), The Joint Stock Companies Ordinance 1858 (WA)* specifically excluded banking associations. Both banks were included on the Joint Stock Companies Register which appeared the result of securing individual acts which determined the banks 'joint stock banking companies'. The first individual banking Act was an Ordinance to incorporate the National Bank of Australasia in 1866.

In 1863 the Western Australian Bank lost its monopoly due to the opening of the government-owned Post Office Savings Bank (Butlin, 1968). This was followed by a number of interstate banks establishing branches in the colony. In 1870, in a demonstration of reformed political and legal accountability, WA gained representative government with a reconstituted Legislative Council comprising six individuals nominated by the Governor and 12 elected individuals (de Garis, 1981). Curthoys and Martens (2013) suggested the system ensured the elite groups of the colony maintained power. It appeared that the British Colonial Office was wary of relinquishing control of WA to a small population. In a further example of broad legal and political advancement of accountability, WA finally established responsible government in 1890 (de Garis, 1981). The existing unicameral legislature of WA became bicameral, a two chamber parliament with a Legislative Assembly formed (Preece, 2002).

A broad sweep of the history of the WA colony has been provided along with an early financial, political and legal milieu that opened up opportunities for banks to

demonstrate their own forms of accountability with the enhancement of financial statement presentation. Although, legal requirements for financial statement presentation were initially lightly imposed through the *Banks 1837 (WA)* Act, the requirements became more exacting with the passing of *The Joint Stock Companies Ordinance 1858 (WA).* The methodology for examining aspects of financial accountability by the three early WA banks between 1837 and 1880 is described in the next section.

Methods

Overlaying legal origin theory with the lens of Peng and Brown's (2016) alternative reporting models, this study considers whether the export of Western-narrow reporting by Britain brought with it trappings of written documentation, selective measurement techniques, linguistic practices and formal standards that attempted to perpetuate selective patterns of financial statement presentation prepared by early banks of the colony of WA. The export of Western-narrow reporting created interpretations of reported profits and asset values that troubled British reporting entities during the colonial period (Wade, 1990). Many British reporting entities found it difficult to comply with the Western-narrow reporting expectations established by British enactments, particularly in terms of reporting profits and asset values (Wade, 1990). This is relevant because early WA banks were also expected to comply with local enactments informed by British enactments.

The typology of alternative reporting models (Traditional, Western-narrow and Western-broad), as shown in Table 2, suggests that alternative forms of accountability may exist across a broad spectrum of reporting models ranging from a Traditional reporting model established by Indigenous accounting systems to a Western-broad

comprehensive reporting model grounded on civic-based practices of Britain (Peng and Brown, 2015). For the purpose of this study, it is assumed that an early Indigenous aboriginal system of reporting was closely aligned to the Traditional reporting model, with its connection to oral accounts, cooperation and spiritual connection (Gallhofer et al, 2000). It is also assumed that the introduction of technical forms of western bookkeeping were tightly connected to the Western-narrow reporting model.

Accountability represents the disclosure and/or publication of accounting information by early WA banks. These banks were accountable to the Governor of WA, the British imperial government, shareholders of the bank, the WA public and other local banks. Patterns of accountability suggests the discernment of a regular and intelligible form or sequence of accountability occurring over a period of time (Brown, 2011; Peng and Brown, 2015, 2016). The discernment of this regular and intelligible form of accountability was guided by use of the alternative reporting models. Western-broad reporting provides an accountability of civic culture and is:

> based on civic-based practices of Western democratic countries placing considerable value on governance and social responsibility (Peng and Brown, 2016: 1185).

This "creation of selective patterns of civic visibility" rendering a sense of accountability of civic culture contrasts sharply with Western-narrow's "creation of selective patterns of economic visibility" that offers an "accountability of agency" (Brown, 2011: 170). Both these forms of accountability differ from the selective patterns of customary visibility and obligations found in the Traditional reporting model that conveys a sense of "accountability of undecided space" (Brown, 2011: 170).

Foreign investment in WA raised the expectations of accountability rendering an emphasis on preparing narrow, financially-based, written reports. Reporting through certain forms of financial accounting presentation were thus encouraged to demonstrate nuanced forms of Western-narrow reporting that gave insights into balance sheet elements (assets, liabilities and equity) and profit or loss (revenue less expenses).

Until 1866, legislation governing financial reporting of banks in WA was limited to clauses contained in the *Banks 1837 (WA)* Act. Those companies carrying on a business of banking, particularly in making and issuing promissory notes payable on demand, were required by the Act under Section 13 to maintain weekly account books detailing notes in circulation and amount of deposits. From weekly accounts, quarterly returns detailing the average quarterly notes in circulation and amount of deposits were required to be prepared and lodged with the Colonial Office. Quarterly accounts ended the first days of April, July, October and January respectively for each year, representing a standard calendar year. Disclosures in regard to public officers and partners of the bank where also required. Section 2 of the *Banks 1837 (WA)* Act required the inclusion of all the personal particulars of public officers and partners of the bank in the annual report, including names and place of abode, whilst Section 5 required quarterly returns to disclose any changes to those public officers or partners. The requirement to supply a list of partners and names of public officers was consistent with requirements under Section 4 of *The Country Bankers Act 1826 (UK)*. The Act removed the six partner restriction on English banks and the requirement to disclose equity holdings would have allowed regulators to monitor increased shareholdings. Legislators in the colony of WA followed suit.

The Bank of Western Australia and the Western Australian Bank were selected for analysis in the sample set as they represent the first two banks established locally in WA offering banking facilities to settlers within the colony. The local establishment seemed to have a powerful influence in driving the initial success of these two banks. The National Bank of Australasia commenced operations in the colony of WA in 1866 and is also included in the sample set as its operations were established after the assent of *The Joint Stock Companies Ordinance 1858 (WA)*. The National Bank of Australasia and the Western Australian Bank were both registered joint stock companies despite a specific exclusion of banking entities under Section 2 of *The Joint Stock Companies Ordinance 1858 (WA).* Both banks were determined joint stock banking companies after securing individual Acts. For the National Bank of Australasia an Ordinance titled '*National Bank of Australasia 1866 (WA)*' and for the Western Australian Bank '*An Act to incorporate the Shareholders of 'The Western Australian Bank' and for other purposes 1879 (WA)*'. The influence of *The Joint Stock Companies Ordinance 1858 (WA*) on the ongoing disclosure of the WA banking sector is of interest to this study as the enactment borrowed heavily from the *Joint Stock Companies Act 1856 (UK).* This presents insight into the Western-narrow and Western-broad strands of legal origin theory on the financial statement presentation of early WA banks.

Table 2: Alternative reporting models

TRADITIONAL (Theory of Indigenous Alternatives)	**WESTERN-NARROW** (Legal Origin Theory)		**WESTERN-BROAD** (Legal Origin Theory)
Very little or no written reports. Resistance to transplants of accounting techniques. Indigenous system of reporting: - Oral accounts - Cooperation - Spiritual	Narrowly based, financially oriented written accounts. Economic agency system of reporting where entities need to keep written financial records to monitor and account for stewardship.		Recalibration of reporting to respond to political economies and social contexts of the colony. Reshapes financial statement presentation, where entities recognise broader written accounts reveal implications of transactions.
Values underpinned by the intergenerational equity principle. A society based on cooperation whereby relational interactions provided access to and sharing of resources. Hunter-gatherers, all 'needs' came from the land which had spiritual as well as economic value.	*Banks 1837 (WA)* Act (based on *The Country Bankers Act 1826 (UK)* informing formation of early banking partnerships in the colony; the *Sterling Silver Currency Act 1825 (UK)* confirming use of the pound in account preparation; *The Bank of England Act 1833 (UK)*) informs account preparation); s2, s5, s13: • Annual return to comprise details of public officers and partners. • Weekly accounts including notes in circulation and amount of deposits to be maintained. • Quarterly returns including details of any amendments to public officers or partners.	*The Joint Stock Companies Ordinance 1858 (WA)* (based on the *Joint Stock Companies Act 1856 (UK)*); XVII, s70-74: • Register of shareholders to be maintained with an annual list provided to the Registrar of Joint Stock Companies. • Statement of income and expenditure and balance sheet. • Annual balance sheet to be delivered to each shareholder. *National Bank of Australasia 1866 (WA)* (aligns with *British Colonial Bank Regulations*); s4, s18: • Shareholder list to be lodged with the Supreme Court. • Weekly accounts and statements. • Quarterly general abstract of the average amount of liabilities and assets, capital stock paid-up, rate and amount of last dividend declared and the amount of reserved profits. • Quarterly general abstracts to be published.	Publication of results by colonial banks in WA between 1837 and 1880 were seen as entirely voluntary: • No requirement for publication included in either the *Banks 1837 (WA)* Act or *The Joint Stock Companies Ordinance 1858 (WA).* • The British Colonial Banking Regulations 1840 (amended 1846) included an expectation of colonial banks to provide a timely publication of results. Action whilst preferred was not mandated.

Sources: Butlin, 1961; Gallhofer et al, 2000; Gibson, 2011; Gray, Owen and Maunders, 1987; Parker, 1990; Peng and Brown, 2016.

The sample of financial statements used by the early WA banks consisted of 11 quarterly returns and one annual return generated by the Bank of Western Australia from 1837 to 1841, 115 quarterly returns and two annual returns by the Western Australian Bank from 1848 to 1879 and 66 quarterly returns by the National Bank of Australasia (General and WA branches) between 1866 and 1876. The annual returns were used to extract a listing of partners of the banks whereas quarterly returns were used to glean information about the addition or cessation of partners. It should also be noted that the National Bank of Australasia used the term 'general abstract' to denote the quarterly return.

The State Records Office (SRO) in Perth, WA provided access to the original primary source of the Colonial Secretaries ledger book comprising quarterly and annual returns for four banks. The ledger maintained in manual form, includes returns filed with the Colonial Office for each bank, detailing members and officers and general abstracts of financial information. Financial records for the Western Australian Bank between 1841 and 1848 (quarter 3) were not included in the Colonial Secretaries ledger book. However, secondary data was sourced for these quarterly averages from Butlin's (1968) review of WA's banking statistics.

Textual analysis compared the sampled bank returns between 1837 and 1880 in terms of the attributes of the alternative reporting models detailed in Table 2's research instrument. Further, a review of compliance was conducted with sampled returns of the Western Australian Bank and Bank of Western Australia compared to Section 13 of the *Banks Act 1837 (WA)* and for the National Bank of Australasia, Schedule B of its own Ordinance, *National Bank of Australasia 1866 (WA). An Act to incorporate the Shareholders of 'The Western Australian Bank' and for other purposes 1879 (WA)*

came into force after the date of the final sampled return of the Western Australian Bank and is therefore not considered in the review of compliance.

Textual analysis is concerned with the extraction of text for the analysis of particular meanings (Carley, 1997). As a qualitative technique, it represents a system of document analysis that assesses specific meanings or concepts within a document (Carrera-Fernández, Guàrdia-Olmos and Peró-Cebollero, 2013). In contrast to the processes of quantitative-based textual analysis with its leanings towards calculative content analysis (Loughran and McDonald, 2016), interpretive textual analysis seeks out patterns, meanings and themes in chosen materials of texts to dig around for complex interpretive understandings (Gephart, 1997). Whilst critics of textual analysis suggest that it suffers complexities associated with relational interpretation and therefore impacts results (Loughran and McDonald, 2016), the approach is deemed suitable for the contextual comparison of the sample of financial statements over time to determine the extent of change as well as compliance with applicable Acts in terms of accountability (Peng and Brown, 2017). Copies of both legislative instruments were obtained from the Government of WA's, Department of the Premier and Cabinet; State Law Publisher.

Analysis

Bank of Western Australia

Financial statement analysis of the Bank of Western Australia shows that the quarterly returns of the average weekly assets and liabilities written in the colonial ledger were consistently presented in a simple T-format, with liabilities shown on the left hand side

and assets listed on the right hand side. Assets included disclosure of specie and treasury bills, discounted bills and dishonoured bills. Liabilities comprised disclosure of notes in circulation and deposits. These disclosures exceeded the requirements detailed in Section 13 of the *Banks 1837 (WA)* Act which only required the quarterly average amount of notes in circulation and amount of deposits. From the start the bank also published quarterly returns, despite no requirement to do so under the *Banks 1837 (WA)* Act. Sponsors of the bank had promised in the initial prospectus publication of a quarterly statement of coin, deposits, notes and discounts (Butlin, 1968). There appears therefore a satisfaction of Western-narrow reporting methods as well as an early form of Western-broad reporting and accountability.

Mandatory currency regulations were maintained by the Bank of Western Australia. As shown in Table 3, the 1st quarterly return (ending 27 September 1837) revealed liabilities amounting to £3,557 and assets of £4,652. While the amounts appear relatively modest in size, the 2nd quarterly return (ending 27 December 1837) revealed a dramatic rise in activity with liabilities increasing by 41.75 per cent to £5,043 and assets climbing by 32.29 per cent to £6,154. This suggests that once the Bank of Western Australia was established, there was a clear need for shareholders to showcase performance using the pound as the medium of exchange for reporting evaluation, which of course may be traced back to the legal origins of the *Sterling Silvery Currency Act 1825 (UK)*. The quarterly returns also reflect an endeavour of Western-narrow reporting, providing written financial records to assess performance across time.

Table 3: Bank of Western Australia: Disclosure of assets, liabilities and number of equity partners (1837-1841)

Date of Return	Position of Return	Annual or Quarterly Return	Liabilities £ (Pounds)[a]	Assets £ (Pounds)[a]	Equity *(number of partners)*
10 Aug 1837	1st	Annual			75
27 Sept 1837	1st	Quarterly	3,557	4,652	
27 Dec 1837	2nd	Quarterly	5,043	6,154	
31 Dec 1840	10th	Quarterly	12,509	17,407	
30 Mar 1841	11th	Quarterly	11,354	16,010	71

[a] *Note: currency amounts in this table are unadjusted for inflation.*
Source: Details extracted from Office of the Colonial Secretary, Bank Returns, Statements of Bank Assets and Liabilities. State Records Office of Western Australia, AU WA S2755-cons 49 20.

By the 10th quarterly return (ending 31 December 1840), Table 3 shows that the Bank of Western Australia had secured £17,407 of assets and generated £12,509 of liabilities. Importantly, over the 11 quarterly returns, the bank's financial statement presentation consistently provided information well above the presentation requirements of the *Banks 1837 (WA)* Act¸ commensurate with patterns of Western-narrow reporting and early forms of Western-broad reporting. Over this period, the Bank of Western Australia also disclosed information about the number of equity partners (refer to Equity column of Table 3), thereby generating additions of Western-broad reporting and accountability. Indeed, the annual return dated 10 August 1837 highlighted the names of partners engaged in the bank as well as their place of abode. Of the 75 partners detailed, six partners had no place of abode (listed as 'absent'), 34 resided in Perth and the remainder were dispersed across WA. The Bank of Western Australia was a home-grown institution. Local ownership highlights the determination of colonists to remain self-sufficient despite the perception that the colony of WA was reliant on foreign-capital and foreign investors.

Western Australian Bank

Consistent with the tenets of Western-narrow reporting, between quarter 3 of 1841 and

1848 the Western Australian Bank fulfilled the minimum disclosure requirements outlined in the *Banks 1837 (WA)* Act including notes in circulation and deposits (Butlin, 1968). From 1845 to 1846 the Western Australian Bank published their returns, notably ending after closure of the bank's only competitor, the Bank of Australasia (Butlin, 1968). Rivalry between the two banks inhibited regular publication between 1841 and 1845 despite the Bank of Australasia's charter mandating the requirement (Butlin, 1968). The WA Governor was reluctant to enforce the Bank of Australasia's charter to publish returns given its only rival, the Western Australian Bank refused to release information on their own financial affairs (Butlin, 1968). Publication of returns by the Western Australian Bank recommenced in 1847 although the usefulness of the statements was questioned by the Governor who requested an alternative presentation of reporting with regular publication of reporting information in the Government Gazette (Butlin, 1968). This decision was accepted by the bank and the return in quarter 4 of 1848 not only continued the presentation of liabilities, but also provided information which split deposits between those bearing interest and those not bearing interest, 'being funds of charitable institutions'. Assets were also disclosed and included bills receivable, cash credits, speciality securities and other debts, specie, treasury bills, notes of other banks and balances at agents and landed property.

In terms of colonial banking reporting practice, bills represented a common exchange transaction between the bank and customer (usually merchants and traders) whereby the customer accepted a bill as payment for goods or services and then on-sold the bill to the bank at a discount (Hamilton, 1880). The customer acted as guarantor to ensure the bank collected on the amount due from the drawee at maturity (Hamilton, 1880). Cash credits operated in a similar manner to bank overdrafts with a sum of

money lent to the customer with interest payable (commonly taken-up by primary producers) (Butlin, 1968; Hamilton, 1880). Specie was another term representing gold and silver coins whilst landed property represented bank premises (per quarterly returns). Agents were viewed as an 'intermediary' party providing opportunity to transact in foreign exchange or solicit overseas deposits (Butlin, 1961). Notes were considered a 'cash' alternative at a time when currency availability was limited and therefore the holding of notes by the bank represented an ability to collect cash for the equivalent value of the note (Hamilton, 1880). Indeed, disclosures generated by the Western Australian Bank exceeded requirements of Section 13 of the *Banks 1837 (WA)* Act and were more extensive than those disclosures provided by the Bank of Western Australia, suggesting that the bank not only satisfied the requirements of Western-narrow reporting but also displayed aspects of Western-broad reporting.

Financial statement analysis of the Western Australian Bank from the 1st quarterly return (ending 31 December 1848) showed that they were initially presented in a similar T-format as that presented by the Bank of Western Australia, with liabilities shown on the left hand side and assets listed on the right hand side. From the 35th quarterly return (ending 30 September 1857), presentation of the quarterly return changed to present liabilities at the top of the return with assets shown below. This top-down presentation, presenting liabilities before assets reflected the thrust of the *Banks 1837 (WA)* Act which gave priority to disclosure of liabilities ahead of other accounting elements.

However, a reduction in disclosures by the Western Australian Bank was evident from the 70th quarterly return (ending 30 June 1866) to the 115th quarterly return (ending 31 March 1879). Fear of the imminent entry of the National Bank of Australasia

in July 1866 may explain the reduction in disclosure. These quarterly returns filed in the colonial ledger disclosed only the quarterly average amount of notes in circulation and deposits, split into those bearing interest and those not bearing interest including an amount for reserve funds. During the colonial period, the reserve fund represented a sum of cash held as emergency funds in case other liquid assets were not available (Butlin, 1968). Despite this change in presentation, the Western Australian Bank in a continued demonstration of Western-narrow reporting remained compliant with the basic reporting requirements detailed in Section 13 of the *Banks 1837 (WA)* Act.

As shown in Table 4, the 1st quarterly return (ending 31 December 1848) revealed liabilities amounting to £16,638 and assets of £25,821, whilst the 3rd quarterly return (ending 30 September 1849) showed a slight decrease in both assets and liabilities before returning to earlier values. However, a sizable increase in activity can be seen from the commencement of the 1st quarterly return (ending 31 December 1848) to the 115th quarterly return (ending 31 March 1879). Not adjusting for inflation, liabilities increased 1117% between these two periods. It is well to note that convict transportation commenced in 1850. This marked the beginning of increased economic activity in the colony of WA (Department of Treasury and Finance, 2004). The 87th quarterly return (ending 31 December 1870) reported notes in circulation and amount of deposits of £98,148. By the 115th quarterly return (ending 31 March 1879) this amount had more than doubled to £202,542.

Table 4: Western Australian Bank: Disclosure of assets, liabilities and number of equity partners (1841-1879)

Date of Return	Position of Return	Annual or Quarterly Return	Liabilities £ (Pounds)[a]	Assets £ (Pounds)[a]	Equity *(number of partners)*
30 Jun 1841	1st	Annual			66
31 Dec 1848	1st	Quarterly	16,638	25,821	
31 Mar 1849	2nd	Quarterly	16,775	25,040	
30 Jun 1878	2nd	Annual			87
31 Dec 1878	114th	Quarterly	204,209	NA [a]	
31 Mar 1879	115th	Quarterly	202,542	NA [a]	

[a] *Note: currency amounts in this table are unadjusted for inflation. In addition, from the 70th Quarterly Return (ending 30 June 1866) assets were no longer disclosed.*

Source: *Details extracted from Office of the Colonial Secretary, Bank Returns, Statements of Bank Assets and Liabilities. State Records Office of Western Australia, AU WA S2755-cons 49 20.*

The number of equity partners in the Western Australian Bank grew from 66 in 1841 to 87 in 1878, as shown by Table 4. From this rendering of Western-broad reporting the annual return for 30 June 1878 shows ownership as widely dispersed across the WA colony, with less than 10% of partners at 30 June 1878 identified as overseas shareholders.

National Bank of Australasia

The National Bank of Australasia with its own Ordinance assented in July 1866, had more onerous reporting requirements than those outlined by the *Banks 1837 (WA)* Act. Section 18 of the Ordinance required weekly accounts and statements to be kept by the bank. Section 18 also required the National Bank of Australasia to provide a quarterly general abstract of the average amount of liabilities and assets. The Ordinance listed quarterly periods as ending on 31 March, 30 June, 30 September and 31 December. In variation to the *Banks 1837 (WA)* Act, the Ordinance required the quarterly statements to be published in the Government Gazette. These new requirements of the 1866 Ordinance thus represented a rise in the expectations of Western-narrow and Western-broad reporting.

This was particularly apparent in Schedule A of the Ordinance, which provided a standard form for maintaining weekly accounts and statements and Schedule B which provided a similar form for preparing the quarterly general abstract. For the quarterly general abstract, liabilities disclosed included notes in circulation, bills in circulation and deposits; all split into those bearing interest and not bearing interest. Balances due to other banks also required disclosure. Required asset disclosures included coined gold and silver and other coined metals, gold and silver in bullions and bars, public securities, landed property, notes and bills of other banks, balances due from other banks and all other amounts of debts due to the bank except notes, bills and balances due from other banks. In addition to liabilities and assets, Section 18 and Schedule B of the Ordinance required the disclosure of capital stock paid-up, the rate and amount of the last dividend declared and the amount of reserved profits at that time.

In keeping with tenets of Western-narrow reporting methods, financial statement analysis of the National Bank of Australasia showed that the quarterly returns filed in the colonial ledger consistently included liabilities, assets, capital stock paid-up, rate and amount of last dividend and amount of reserved profits as listed within Section 18 and Schedule B of the bank's Ordinance. In some instances, a T-ledger format was followed, with liabilities presented on the left hand side, assets presented on the right hand side, and capital stock paid-up, rate and amount of last dividend and amount of reserved profits detailed at the bottom. In other instances, presentation would change to show liabilities at the top of the abstract, assets below, followed by capital stock paid-up, rate and amount of last dividend and amount of reserved profits. It is not outside the realm of possibilities that the positioning of liabilities at the top of the statement

underscored the importance of showcasing the risk to potential investors of the bank's current financial position in the growing economy.

For the most part, between the 1st quarterly return (ending 30 September 1866) and the 66th quarterly return (ending 26 June 1876) the colonial ledger showed two quarterly returns, one for the National Bank of Australasia (WA Branch), and one for the corporation generally, which was based in the State of Victoria (Blainey and Hutton, 1983).

Table 5: National Bank of Australasia (WA Branch): Quarterly Disclosure of Assets and Liabilities (1866-1876)

Date of Return	Position of Return	Liabilities £ (Pounds)[a]	Assets £ (Pounds)[a]
30 Sept 1866	1st	5,997	18,709
31 Dec 1866	3rd	13,056	34,461
27 Dec 1875	64th	101,231	93,133
26 Jun 1876	66th	119,053	102,629

[a] *Note: currency amounts in this table are unadjusted for inflation.*
Source: *Details extracted from Office of the Colonial Secretary, Bank Returns, Statements of Bank Assets and Liabilities. State Records Office of Western Australia, AU WA S2755-cons 49 20.*

As shown in Table 5, the 3rd quarterly return (ending 31 December 1866) revealed liabilities amounting to £13,056 and assets of £34,461. In the ten years to the equivalent 64th quarterly return (ending 27 December 1875), the amounts had increased dramatically to £101,231 and £93,133 respectively. Table 5 also shows that in the earlier period of financial statements sampled, assets exceeded liabilities. However, from the 45th quarterly return (ending 30 September 1872) liabilities exceeded assets. The end of convict transportation in 1868 and subsequent decrease in imperial spending added to the already depressed state of the colony of WA and likely impacted on the bank's financial performance (Butlin, 1968).

Disclosure of shareholders was not provided in the Colonial Secretaries ledger book for the National Bank of Australasia suggesting a decrease in Western-broad

reporting. Section 4 of the Ordinance required a list of shareholders to be lodged with the Supreme Court office annually.

By June 1878, the financial statement presentation of the quarterly return comprised a vertical appearance with categories and corresponding amounts of liabilities shown on top, and categories and corresponding amounts of assets shown below. An example is shown in Figure 2; which highlights results for the 66th quarterly return (ending 26 June 1876). Liabilities comprised notes in circulation, bills in circulation, amounts owed to other banks and deposits. Assets included amounts held in gold and silver, landed property and premises, notes and bills of other banks, amounts owed from other banks, and debts owed. A signed statement of oath indicating results reflected that the assets and liabilities were faithfully represented. A requirement under Section 18 of the Ordinance, the quarterly abstracts were to be verified under oath of the Manager, Chief Cashier or Clerk at which time the abstract would be provided to the Colonial Secretary to be published. Any false statement of oath by the Manager, Chief Cashier or Clerk as to the quarterly abstract of averages was subject to penalties under existing laws at the time. The statement could be interpreted as a guarantee of financial compliance in presenting the bank's affairs to the public.

Figure 2: General abstract for National Bank of Australasia (WA branch) showing the average amount of the liabilities and assets being the 66th quarterly return ending 26 June 1876

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General Abstract showing the average amount of the Liabilities and Assets of the National Bank of Australasia, for the colony of Western Australia, taken from the several Weekly Statements during the Quarter, from the 27th March, to the 26th June, 1876.

Liabilities	Amounts £	s	d	Totals £	s	d
Notes in Circulation						
Not bearing Interest	"	"	"	107	14	3 1
Bearing Interest	"	"	"	"	"	"
Bills in Circulation						
Not bearing Interest	"	"	"	894	16	9
Bearing Interest	"	"	"	"	"	"
Balance due to other Banks				17	14	0
Deposits						
Not bearing interest	60409	12	3			
Bearing interest	46944	11	6	107427	2	9
Total amount of Liabilities				£ 119053	16	21

Assets	Totals £	s	d
Coined Gold and Silver, and other Coined Metals	5741	19	10
Gold and Silver in Bullion or Bars	"	"	"
Government Securities	"	"	"
Landed Property, Premises, &c	52	18	1
Notes and Bills of other Banks	748	12	2
Balance due from other Banks	1428	1	1
Amount of all Debts due to the Bank, including Notes, Bills of Exchange, and all Stock and Funded Debts of every description, Excepting Notes, Bills, and Balances due to the said Bank from other Banks.	42528	2	6
Total amount of Assets	£ 102629	13	8

Amount of the Capital Stock paid up at the close of the Quarter ended 31st March, 1876 } 250,000

Rate of the last Dividend declared to the Shareholders 10% per annum and Bonus of 2½ per annum

Amount of the last Dividend declared 45,000 " "

Amount of the Reserved Profit after declaring such Dividend 265617 18 10

Jos. Joseph Smythe, Manager

Perth, 10th July, 1876.

I, Joseph Smythe, make oath, that to the best of my knowledge and belief the foregoing Abstract is a true and faithful account of the average amount of assets and liabilities of the above Bank for the Colony of Western Australia during the period specified; and that the same was made up from the Weekly Statements thereof, kept in pursuance of the provisions of the Ordinance of the 3rd Victoria No 9.

Jos. Joseph Smythe

Sworn before me at Perth, this Fourth day of July, 1876

Jas. Jas. G. Lee. Steere J.P.

Source: Office of the Colonial Secretary, Bank Returns, Statements of Bank Assets and Liabilities. State Records Office of Western Australia, AU WA S2755-cons 49 20: 206-207.

Conclusion

Taking the broad assumption that financial statement presentation may cast light on the type of accountability that took place by early WA banking entities operating between 1837 and 1880, it appears all three banks demonstrated facets of Western-narrow and Western-broad accountability. This somewhat aligns with the expectations of banking legislative reporting, that was informed by UK legislation, although the additional voluntary information provided by the financial statements of early Western Australian banks shows they were eager to provide a pattern of extensive accountability. No discernible form of Traditional reporting is recorded as having taken place in the Colonial Office records.

Consistent with the Western-narrow facet of legal origins theory, there is evidence that financial statement presentation of early WA banks over a 43-year sample period grew in sophistication. The presentation of the financial statements shows that the *Sterling Silver Currency Act 1825* was very important in introducing the British pound as the currency of the colonies. Twelve years after its enactment, the first WA bank used the pound to generate the first of a modest but informative set of measurements of assets and liabilities for contrast and comparison of performance over 11 quarterly returns of the average weekly assets and liabilities. As the analysis of the study bears out, this unit of measurement provided not only an indication of the going concern of the Bank of Western Australia but also afforded a glimpse of financial activity in the colony from 1837 to 1841.

A further legal transplant the '*Banks 1837(WA)* Act' appeared to provide a coherent and well understood set of requirements for the financial statement presentation by WA banks. This was evident as up to 1858, before the passing of *The*

Joint Stock Companies Ordinance 1858 (WA), all quarterly returns were generated in a timely and compliant manner. Clearly, the British *Colonial Banking Regulations* along with the adoption of *The Joint Stock Companies Ordinance 1858 (WA)* prompted the National Bank of Australasia to provide relatively more information in its financial statement presentation than was prepared by earlier banks. As the transactions of the National Bank of Australasia grew in number and complexity, so did the quarterly returns of liabilities and assets broaden and deepen in aspects of reporting and accountability.

Acknowledgements

The authors of this paper would like to acknowledge the assistance of staff at the State Records Office of Western Australia with providing access to original historic records from the Office of the Colonial Secretary of Western Australia.

Funding statement

The authors received no financial support for the research, authorship, and/or publication of this article.

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The Bank of England Act 1833 (UK) 3 & 4 Will 4 c 98.

The Country Bankers Act 1826 (UK) 7 Geo 4 c 46.

8 APPENDIX

Appendix A Statements by Co-Authors

PUBLICATION 1

	Conception and Design	Acquisition of Data and Method	Data Conditioning and Manipulation	Analysis and Statistical Method	Interpretation and Analysis	Final Approval	**Total % contribution**
Co-author 1 Chantal Game	☒	☒	☒	☒	☒	☒	**80%**
Co-author 2 Lisa Cullen	☐	☐	☐	☒	☒	☒	**10%**
Co-author 3 Alistair Brown	☐	☐	☐	☒	☒	☒	**10%**

I, as a Co-Author, endorse that this level of contribution by the candidate indicated above is appropriate.

Doctor Lisa Cullen (Co-author 2)

Associate Professor Alistair Brown (Co-author 3)

PUBLICATION 2

	Conception and Design	Acquisition of Data and Method	Data Conditioning and Manipulation	Analysis and Statistical Method	Interpretation and Analysis	Final Approval	**Total % contribution**
Co-author 1 Chantal Game	☒	☒	☒	☒	☒	☒	**80%**
Co-author 2 Lisa Cullen	☐	☐	☒	☒	☒	☒	**10%**
Co-author 3 Alistair Brown	☒	☐	☐	☒	☒	☒	**10%**

I, as a Co-Author, endorse that this level of contribution by the candidate indicated above is appropriate.

Doctor Lisa Cullen (Co-author 2)

Associate Professor Alistair Brown (Co-author 3)

PUBLICATION 3

	Conception and Design	Acquisition of Data and Method	Data Conditioning and Manipulation	Analysis and Statistical Method	Interpretation and Analysis	Final Approval	**Total % contribution**
Co-author 1 Chantal Game	☒	☒	☒	☒	☒	☒	**70%**
Co-author 2 Lisa Cullen	☒	☐	☐	☒	☒	☒	**15%**
Co-author 3 Alistair Brown	☒	☐	☐	☒	☒	☒	**15%**

I, as a Co-Author, endorse that this level of contribution by the candidate indicated above is appropriate.

Doctor Lisa Cullen (Co-author 2)

Associate Professor Alistair Brown (Co-author 3)

Appendix B Copyright release for published materials

PUBLICATION 1

chantalgame@gmail.com

From: Open Research <OpenResearch@cambridge.org>
Sent: Tuesday, 26 January 2021 5:46 AM
To: chantalgame@gmail.com
Subject: Re: Enquiry - article use in PhD

Dear Chantal,

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Kind regards,
Claudia

Claudia Lucero
Academic Publishing Coordinator
Cambridge Open
openresearch@cambridge.org
Facebook | Twitter | LinkedIn

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From: "chantalgame@gmail.com" <chantalgame@gmail.com>
Date: Sunday, January 10, 2021 at 8:27 PM
To: Cambridge Open <openaccess@cambridge.org>
Subject: FW: Enquiry - article use in PhD

Good morning

I am looking at completing my PhD by publication or as a hybrid thesis. I am the first author on the following article:

1

Game, C. S., Cullen, L. M., & Brown, A. M. (2020). The rise of financial accountability in British joint stock banks: 1825 to 1845. *Financial History Review,* 27(2), 234-255. https://doi.org/10.1017/S0968565020000086

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Thank you for your assistance

Chantal Game

PUBLICATION 2

chantalgame@gmail.com

From: Peer Review Systems Helpdesk <prshelp@tandf.co.uk>
Sent: Thursday, 14 January 2021 3:40 AM
To: chantalgame@gmail.com
Subject: Enquiry - article use in PhD [ref:_00D0Y35Iji._5007R2pVluq:ref]

Dear Chantal,

Thank you for your email.

As an author of the original article you have the right to include the Accepted Manuscript in a thesis or dissertation that is not to be published commercially, provided that publication is acknowledged using the following text:

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Best wishes,
Elaiza Hernandez
On behalf of the Taylor & Francis Journals Helpdesk

Subject: Enquiry - article use in PhD
Sent by: chantalgame@gmail.com
Sent on: 1/11/2021

Good morning

I am looking at completing my PhD by publication or as a hybrid thesis. I am the first author on the following article:

Game, C. S., Cullen, L. M., & Brown, A. M. (2020). Origins resting behind banking financial accountability of paragraphs 78 to 82 of the First Schedule of the Companies Act 1862 (UK). Business History, 1-25.
<https://protect-us.mimecast.com/s/SPWxCzpBnGHR18mjwh4hx5F?domain=doi.org>
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I have been reviewing the website to find information on permissions required to use the article within my PhD by publication or hybrid theses. The thesis would also be made available on the universities repository espace (Curtin University) - provided for education purposes / non-commercial.

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Thank you for your assistance

Chantal Game

PUBLICATION 3

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chantalgame@gmail.com

From: Chantal Game <chantal.game@postgrad.curtin.edu.au>
Sent: Wednesday, 9 October 2019 2:31 PM
To: Chantal Game
Subject: Fw: Accounting History - Thesis by Publication Query

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From: Chantal Game <chantal.game@postgrad.curtin.edu.au>
Sent: Wednesday, 24 October 2018 11:10 AM
To: Leona Campitelli <leona.campitelli@rmit.edu.au>
Subject: Re: Accounting History - Thesis by Publication Query

Dear Leona

Thank you for providing the link, it has been very helpful.

Kind regards
Chantal

From: Leona Campitelli <leona.campitelli@rmit.edu.au>
Sent: Wednesday, 24 October 2018 8:16:55 AM
To: Chantal Game
Subject: Re: Accounting History - Thesis by Publication Query

Dear Chantal,

I provide the link to SAGE's guidelines for author's which I hope provide the information you require. If further information is required you will need to contact SAGE as they hold the copyright as publisher and would be able to advise on use of published articles.

https://au.sagepub.com/en-gb/oce/journal-author-archiving-policies-and-re-use

Regards Leona

On Wed, 24 Oct 2018 at 11:00, Chantal Game <chantal.game@postgrad.curtin.edu.au> wrote:

Good morning

My name is Chantal Game and I am a PhD student at Curtin University in WA. I have a co-authored article recently published in Accounting History, titled "Accountability and financial statement presentation of early Western Australian banks, 1837–1880". It is published in Volume 23, Issue 4.

I am completing my PhD as a 'Thesis by publication' and would like to find out the procedure to apply for permission with Accounting History to use this article. My supervisor advised you may be able to assist with the process to make this request?

Thank you for your time.

Kind regards
Chantal Game