A true and fair view of position and results: the historical background

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Abstract

Recourse to earlier legislation and to the constitutive documents of partnerships and companies in the early years of the nineteenth century suggests that the 'true and correct view' of the states of affairs expected in the companies legislation of 1844 and 1856 was to be given by the valuation of assets at up-to-date prices, and specifically at selling prices in the ordinary course of business.

Over the past twenty-five years, the statutory specification of the quality of the financial statements to be published periodically by companies has been in debate. Since the UK companies acts began to particularize the contents of those statements, there has been an overriding statutory provision to the effect that every balance sheet and profit and loss account of a registered company shall give true and correct (later, true and fair) views of its dated state of affairs and dated profit or loss respectively. The meaning of 'true and correct' (or 'true and fair') in this context has never been clarified, by statute, through case law or by clear utterance of professional or regulatory authorities, notwithstanding the overriding rule and the apparently critical importance of the meaning of the phrase. Hence the occasion of the debate, and of this exercise in exploring the origins of the description.

The occurrence of such phrases as 'true and correct' or 'true and fair', in statutes relating to financial statements generally, dates from 1844. The UK Joint Stock Companies Act, 1844, provided that company directors shall cause the books of a company to be balanced and a 'full and fair balance sheet' to be made up (s. 35). By the Joint Stock Companies Act, 1856, this type of provision was removed from the body of the statute to the model (optional) company regulations appended to the Act. The directors of a company adopting those regulations were required to cause true accounts

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to be kept upon the principle of double entry (c. 69). The auditors were required to state whether in their opinion 'the balance sheet is a full and fair balance sheet ... properly drawn up so as to exhibit a true and correct view of the state of the company's affairs' (c. 84).

It is well known that legal documents and legal practice rely heavily on precedent. It seemed possible therefore that there would be identifiable usages of terms similar to 'true', 'correct' and 'fair' prior to the mid-nineteenth century. There are. But before dealing with the evidence, a word or two on the general context. The orderly conduct of continuing interpersonal relations has always been founded on mutual trust. Not uncommonly, for example, the opening clauses of partnership agreements expressed the 'mutual friendship and regard [the partners] have for and the confidence they place in the fidelity and integrity of each other' (an agreement of 1770). But trust was not to be blind trust. There would be occasions when one partner would be in a more knowledgeable, and therefore more powerful, position than others to influence the exercise of rights and dispose of property of the partnership. The parties therefore would agree to the keeping of records and accounts, accessible to each, and a periodical accounting and settling up of their individual interests. The object of this was not simply to secure the accountability of partners for the exercise of partnership powers, but also to reaffirm the trust and goodwill on which association depended. (At a more common and more transient level, laws governing weights and measures, and against counterfeiting and clipping the coinage, are among the more obvious of a host of laws devised to secure fair and continuing dealing between parties more and less powerful in particular respects.) Arrangements made or authorized by statute, and partnerships created by private contract, provide examples of rules and understandings by which fair dealing was to be secured.

The remainder of this paper examines verbal usages up to 1844 in the following order. Sections of a number of 18th and early 19th century private and public statutes are first examined to illustrate the range of terms used to signify the duty to ensure that accounts were properly kept as a basis for representing the financial affairs of public bodies and business firms. Next, relevant clauses of partnership agreements and deeds of settlement of trading, manufacturing and banking companies are found to use a range of terms of similar purport to describe the quality of the books of account to be kept and entries in those books of account. The dicta of authors of accounting manuals and economic texts are then examined in an endeavour to discover the nature of the information that the books and periodical summaries were, or may have been, expected to represent. The contracts and deeds are then reconsidered for references to valuation provisions, and possible explanations for the emphasis on 'selling price' and 'value' rather than costs are explored. In the light of antecedent usages, the relevant sections of the Joint Stock Companies Acts of 1844 and 1856 are given an
interpretation that seems to be consistent with the understandings prevalent at that time.

Statutory references

About the beginning of the eighteenth century, the Governor and Company of Mine Adventurers of England ran heavily into debt. An act 'for the relief of the creditors and proprietors' and the continuation of the reorganized company (9 Annae, c.26, 1710) required the senior officers (governor, deputy governor and directors) to make annually 'a true state or representation of the affairs and condition' of the company, 'and to state, make up and balance the accounts' of the company, under penalty of suspension of their rights to transfer shares or to receive profits in respect of their interests. So that creditors and proprietors may have 'full satisfaction of the state and condition, debts and effects of the company', the directors were empowered to appoint 'one or more honest and able accountant or accountants ... to well and truly according to the best of his or their skill examine the books, deeds and papers and accounts [of the] company and to see if the said accounts are fairly and regularly entered and justly made up and properly vouched and to fairly and impartially lay before the next general meeting of the company ... the true state of the company's accounts'.

Notice the number of points at which slightly different terms are used in conjunction to cover what may not be understood by the use of any of them singly: true state or representation, affairs and condition, well and truly, fairly and regularly, fairly and impartially. These verbal couples may be examples of hendiadys – the expression of a compound notion by giving constituents as if they were independent – or of cognate description – expression by two words of a singular notion, with or without some limitation. But whatever their technical classification may be, these couples forcefully express the idea of conduct of financial affairs with the utmost circumspection. They are as forceful in their setting as, in another setting, was the prescribed oath of office by which directors and the accountants bound themselves to use the best of their skill and understanding for the advantage of the company and in the conduct of the examination of the books respectively.

An act for preserving certain fen lands (13 Geo III, c.45, 1773) provided for the appointment of certain clerks, treasurers, collectors and others, who were to give to their district commissioners 'a true, exact and perfect account in writing under their respective hands ... of all monies received or disbursed ... etc'.

An act relating to the public highways (13 Geo III, c.78, 1773) provided for the appointment of local managers empowered to levy assessments, fines and penalties. The surveyor was to keep 'one or more book or books in
which he shall fairly enter a just, true and fair account of all such money as shall have come to his hands'.

An act for extending the duty on ale and beer and for providing certain public services in Port Glasgow and Newark (15 Geo III, c.60, 1774) stipulated that the bailees and trustees appointed under the act should cause to be laid before the Commissioners 'a true and fair account of all monies' collected and levied in the preceding year from rates, duties, fines and so on.

Edwards (1986: 2–25) reproduces relevant sections of a number of private acts establishing canal, railway and gas companies dating from 1790 to 1842. Six of those acts contained provisions on the quality of the books of account to be kept; three specified true and regular accounts; one, a true, exact and particular account; and two, full and true accounts. The 1842 acts setting up the South Metropolitan Gas Light and Coke Company and the Newcastle and Darlington Junction Railway Company provided that periodically 'an exact balance sheet shall be made up, which shall exhibit a true statement of the capital stock and property of every description ... and a distinct view of the profit or loss which shall have arisen'.

From these examples there does not seem to be any difference in the rectitude of accounting or bookkeeping expected of privately owned (e.g., the Mine Adventurers) and public interest ventures (e.g., the fen lands, highways and Glasgow duties acts). There seems to be no difference in the quality expected of either the bookkeeping or the periodical reporting.

Contractual references

These differently dated examples suggested the possibility of finding general specifications of the quality of financial information in the constitutive documents of business firms. It was presumed that words in common use, such as those already cited, would continue in use in the companies legislation. The most common documents in use would be partnership agreements and contracts for smaller partnerships and deeds of settlement for larger partnerships and companies. (All such firms commonly described themselves as companies.)

A number of copies of contracts or agreements of partnership or copartnery in the University of Glasgow Archive were examined. The majority appeared to be parts of the practice records of Glasgow writers or attorneys. The partnerships covered a variety of trades (merchants, grocers, drapers, exporters and importers, ironfounders, engineers, muslin manufacturers, carpet manufacturers and others) conducted from and in the vicinity of Glasgow. It was not known at this early stage in our inquiry what the documents might yield, by way of evidence of the origins, continued use or popularity of particular verbal formulae. The principal date of interest was at or about 1844, the date of enactment of the first joint stock companies
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act. The contracts examined straddle that date. A smaller set of such agreements was examined in the Guildhall Library. They covered the period 1628–1837, and a range of trades including drapers, upholsterers, distillers, opticians, drug brokers and button merchants. Table 1 summarizes the bookkeeping specifications in the contracts.

Table 1 Quality of books of account to be kept – partnership agreements

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<tbody>
<tr>
<td>Regular</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exact and regular</td>
<td>12</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Regular and fair</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regular and distinct</td>
<td></td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>Proper</td>
<td>1</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Proper and distinct</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Just true and perfect</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Necessary</td>
<td>1</td>
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<tr>
<td>No clear specification</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>15</td>
<td>21</td>
<td>10</td>
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Note that there are clusters at only two points in the table; that, more frequently than not, the stipulation is an adjectival compound; and that reference to ‘true’ occurs twice; to ‘fair’, once; and to ‘correct’, not at all. But all the words used imply that the accounts should be reliable or true representations of financial affairs.

Other features of the contracts would reinforce this idea. Contracts commonly provided that, when balanced, the books of account would be signed by the parties. The books would then be ‘probative and bear legal evidence on all matters whatsoever of or among the partners concerned in the funds or their representatives’. Many of the contracts had clauses relating to dissolution of the partnership, the death or bankruptcy of a partner and the appointment of arbitrators in the event of disputes. Some empowered any of the partners to require the termination of the partnership if losses had been sustained up to a stated proportion of the fixed capital. And some provided for the payment of interest on the amounts standing from time to time (i.e., after periodical division of the profits) to the credit of partners’ accounts. For all these reasons the truth of the accounts would be of significant, not trivial, importance. The close association of, and trust among, partners may have made it seem superfluous to stipulate that the accounts should be true in some sense. But there can be no doubt that false accounts would neither express, nor aid in the advancement of, the interests of partners.

What then would be considered to be the truth in this context? Since the contracts commonly provided for the balancing of the books of account on
a stated date, only things of which it could be said 'this was (or is) the case' before (or on) that date could rank as true statements. And only those statements which were descriptive of what was the case at the stipulated balancing date could be said to be true at that date. Now since many of the terms of the contracts were overtly concerned with death, dissolution and dispute, and some were overtly concerned with the capital base of interest payments, the kind of statement of service for all of these purposes would be a statement in which the partnership properties were represented at their money equivalents at balancing date. There is no more plausible hypothesis, for money amounts actually or potentially available are the only indications of what could be divided on death or dissolution or re-invested as partners' capital.

Banking companies

Banking companies are a class of companies the financial features of which, from time to time, affect the public interest – the interests of depositors and the general level of confidence – more directly and more critically than the interests of bank proprietors. Exacting provisions relating to books of account and periodical summaries might therefore be expected. Many banks, once local, were gradually merged with regional and national banks; their constitutive documents are now in the archives of their successors.

Some twenty-four partnership agreements (1714–1829) and seventy deeds of settlement (1827–1843) were examined. The documents of some banks were vague on the quality of the financial records to be kept; and partnership agreements were usually less explicit or full than deeds of settlement. Table 2 summarizes the specifications relating to books of account in those documents.

<table>
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</thead>
<tbody>
<tr>
<td>Proper</td>
<td>12</td>
<td>10</td>
</tr>
<tr>
<td>Proper and necessary</td>
<td>1</td>
<td>54</td>
</tr>
<tr>
<td>Other</td>
<td>9</td>
<td>3</td>
</tr>
<tr>
<td>No specification</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>24</td>
<td>70</td>
</tr>
</tbody>
</table>

The total occurrences, singly or in combination, of particular words were: necessary – 62; proper – 80; true – 2.

There were commonly clauses dealing with the quality of accounting entries, and of the statements, accounts and balance sheets that would be derived. Partnership agreements were more varied than the later deeds of
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settlement. The lengths to which a deed might go are indicated by the 1827 deed of the Huddersfield Banking Company. The directors 'shall cause to be provided and kept . . . all necessary and proper books of account, wherein shall be entered in a fair, regular and plain method, an account of all receipts, payments, transactions and dealings . . .; and of all profits, gains and losses . . .; [and shall twice yearly] take and make up a fair, accurate, and just statement and account of the stock and capital . . . so that the real state of the affairs of the company may in such statement plainly appear'. Notice that the method of keeping the books, and the quality of the 'statement and account' are linked to the representation of the real state of affairs. The stipulations of the documents on the keeping of accounts are summarized in Table 3.

Table 3 Quality of entries in books of account — banking companies

<table>
<thead>
<tr>
<th>Specification</th>
<th>Partnership agreements</th>
<th>Deeds of settlement</th>
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<tbody>
<tr>
<td>Fair</td>
<td>6</td>
<td>29</td>
</tr>
<tr>
<td>Fair regular and plain method</td>
<td></td>
<td>23</td>
</tr>
<tr>
<td>Fair explicit and true entries</td>
<td>11</td>
<td>3</td>
</tr>
<tr>
<td>Other specifications</td>
<td>7</td>
<td>15</td>
</tr>
<tr>
<td>No clear specification</td>
<td>24</td>
<td>70</td>
</tr>
</tbody>
</table>

The total occurrences, singly or in combination, of certain words were: fair – 64; regular – 39; true – 27.

On the quality of the final general account, 'statement and account' or balance sheet, the partnership agreements used a wide range of formulae, from 'true' to 'just true plain perfect and particular'. The majority of the seventy deeds of settlement stipulated:

full true and explicit statement and balance sheet 29
fair accurate and just statement and account 26

For all ninety-four banking documents, the total occurrences, singly or in combination, of certain words were: true – 42; fair – 29; full – 36; explicit (or clear or plain) – 34; accurate (or exact or correct) – 33; just – 31. Nowhere did the words of the 1844 statute, 'full and fair balance sheet' and 'true and correct view', appear, though there were many phrases of the same or similar meaning.

It may be considered that the choice of words by the draftsmen of the bank deeds was clearer than that of the draftsmen of the 1844 statute. The objects of the accounts specifications were, in the majority of cases, expressed in the form, 'so that the real state of affairs may plainly appear', or 'for fully (truly, etc.) manifesting the state of affairs'. These formulae relate directly to the function of the financial statements. They leave rather less latitude for misinterpretation of the intention than the words 'a true
and correct view of the state of affairs'; for, although it may be held that all three formulations are of approximately similar intent, 'a true and correct view' tends to shift attention from what is open to view (a representation of an objective state) to how the viewer may view whatever is represented. It seems entirely plausible that tolerance of the multiplicity of alternative accounting rules — yielding information that is far from true and fair — rests, or has been made to rest, on these words of the statute.

Whether the clusters of terms 'necessary and proper', 'fair, regular and plain', 'fair, accurate and just', 'statement and account', 'stock and capital' are to be read as linking cognate terms for emphasis; as means of ensuring that words of similar but slightly different meaning would reinforce the intent of any of them taken singly; or as assurance against omissions — it cannot be doubted that the end sought was true accounts and true periodical balances (or balance sheets) in the sense of 'true' described earlier.

The literature

**Bookkeeping manuals — correspondence of records with reality**

Turn now to a more specific phase of the matter, namely, what was to be shown truly, truly and correctly or truly and fairly? Early indications of this are given in the manuals and bookkeeping handbooks from the time of Pacioli. These manuals are basically and generally descriptions of the principal books and bookkeeping of merchants. There is often relatively little of an explanatory nature, the bulk of the material being rules for making, and illustrations of, entries in books of account.

In the first place, it was commonly considered that the accounts and balances of accounts from time to time would represent actual property and debts and the estate of the merchant. Pacioli wrote that, from the capital account, 'you may learn the entire value of your property' (1494[1963]: 96). Colinson said that bookkeeping would enable the merchant to see 'his whole estate and in what position it is at any time' (1683: 1). Stephens referred to the need of 'every prudent man to know exactly the computed value and condition of his estate' from time to time (1735: 4). Gordon held that 'a faithful register of all his transactions . . . by which a real state of the whole, or any particular branch, may be at once discovered and laid open' is essential to a merchant (1765: 13). 'A merchant's books should exhibit the true state of his affairs . . . the particular success of each transaction, as well as the general result of the whole; and should afford a correct and ready information upon every subject for which they may be consulted' (Kelly, 1802: 1). Clearly, if the merchant were to rely on his accounts in the manner or for the purposes described, the accounts would necessarily tally or correspond with a set of real world relationships. To learn the entire value, to see a whole estate, to know exactly, real state, true state, correct
information – these words can have no connotation other than that the records described what was the case, in respect both of transactions and of dated states.

This correspondence however must be understood in a manner consistent with usage and understanding during those centuries. Some of the expositions of the sixteenth and seventeenth centuries are consistent with what we would now call the cash basis of accounting. Certainly this was so in respect of merchandise inventories. For each item (‘parcel’) of inventory its account would be debited with the number or quantity of items and their cost, and credited with the quantity sold and the proceeds of sales made, on the occasion of each rest or balance. The profit or loss on the merchandise sold would be transferred to the profit and loss account periodically, and the balance (the remainder at cost price) would be carried into the next period’s accounts. As to cash balances and accounts owing and owed, then, the correspondence was to be exact. As to the quantities of merchandise on hand the correspondence was to be exact; but, true to the cash basis of reckoning, no account would be taken of any change in the price or value of that merchandise.

Valuation rules, however, were by no means uniform. Pacioli had given an example of merchandise inventory which was to be valued ‘according to current prices’ as if that basis of valuation were intended to be a general rule (1494[1963]: 56). Carpenter gave an inventory which included jewels and plate valued by weight at stated prices, without reference to cost; and the lease of an inn ‘which cost me 106 pounds which I now value at 160 pounds’ (1632: 97-8). Dafforne noticed two sorts of trial balance. ‘The first is a survey ... of the ledger accounts. ... The second ... is seen, when all unsold wares and outlandish moneys are rated [priced]; all abatements, as likewise gains or losses, are known.’ He gave illustrative material in which two manors and several London houses were shown at ‘the true worth and value thereof according to estimation’, and two ships at sea ‘valued according to estimation’ (1684: 46-7, Journal B). This identification of a ‘second sort’ of trial balance is among the early signs of the transition from mere transaction bookkeeping to periodical valuation of assets at an ascertained current price – a clear example of accrual accounting, and explicit recognition of the practical significance of a discovered financial position.

Snell (c.1710) referred to the valuation of unsold merchandise, distinguishing valuations from the ‘resting sums’ or ledger account balances (as in Dafforne’s ‘first sort’ of trial balance). Perhaps because of the superiority of knowing the worth of things in possession, and to make clear that superiority, writers began to explain more fully the meaning of valuation. Stephens explained the matter thus: ‘By the assistance of this money ... [one might say] such a thing of my own is worth 20 pounds, that is, people will give so much for it ... by taking the value of all his things together ... a man may ... judge of the rank he holds in the world, and perfectly inform himself of what he is able to purchase from his neighbour’ (1735:...
2). The things a man possesses as of right are described collectively as his estate; the sum of the values of those things 'considered abstractly' is the value or extent of the estate; and the things considered severally together with their respective values, but 'with no regard to the computed value in general', is the condition of the estate (1735: 2, 4). This corresponds exactly with what might now properly be called a statement of financial position. By the amount of any accrued increment or decrement, the extent of a man's estate is increased or decreased; he is richer or poorer (1735: 16, 17).

Dodson (1750) affirmed the same principle. 'If goods are sold for more than the prime cost and charges, stock [the total of the estate] is thereby increased. . . . Hence, although the goods be not actually sold, yet if their value or market price be increased, or diminished, stock is likewise affected thereby' (v). The stock account is given the same function as by Stephens. The person whose transactions are recorded being called the accountant, 'Stock . . . shows the state of the accountant's affairs at the close of his books . . . the value of his clear estate . . . or . . . the sum he owes more than his effects will pay' (vii). The general idea that the value of any good in possession is equal to its selling price seems to have been acceptable, even if by some it was not accepted. Postlethwayt's *Universal Dictionary of Trade and Commerce* (1757: I, 386), in a different but related context, carried the jingle:

> For what's the worth of any thing?
> But just as much as it will bring.

About that time there began a literature in a different mode from the bookkeeping manuals, a literature on the production and distribution of wealth as rigorous as observation and disciplined description and analysis could make it.

**Economists on value**

Adam Smith's *The Wealth of Nations* (1776) is commonly regarded as marking the beginning of the systematic study of political economy and economics. In any case it is one of a series of works which have assigned meanings to 'value' and 'valuation'. The variety of meanings that may be assigned to value necessitates the use of some qualifier. Smith referred to 'value in use' and 'value in exchange' (1776[1937]: I, 24). Mill said that value when used without a qualifier, 'always means, in political economy, value in exchange . . . or exchangeable value' (1848[1940]: 437). Fawcett (1883: 347), Walker (1887: 5), Taussig (1925: 111) and Carver (1926: 3) were of the same view, a view that it seems eminently reasonable to suppose was based on observation of parties engaged in exchanges. This usage had its echoes in the accounting literature – Folsom (1873[1976]: 2), Soulé
The economists used the terms wealth or capital for what was called in the early accounting manuals the estate, stock or capital. In discussing the wealth or capital of individual persons or firms (as distinct from the wealth of whole nations or economies), wealth was commonly described as potentially exchangeable means (e.g., Keynes, 1891[1930]: 95); and a dated amount of wealth as what the exchangeable means would or should fetch in the market (e.g., Fisher, 1906: 12). Further, many considered income to be, and described it as, a periodical increment in general purchasing power (from, say, Smith, 1776[1937]: I, 255, to Alexander, 1950: 8).

Value, worth, wealth, capital and income described in the manner of these economists are thus a family group of ideas or concepts linked, as money equivalents, by the processes of choice and interaction by way of exchanges.

The market prices of goods and services have, in the general body of economic thought and doctrine, been considered as signals which prompt inquiry, and commonly issue in action by buyers and sellers. Whether, and on what scale, any buyer or seller can take advantage of any opportunity provided by others in the market depends on the debt-paying or purchasing power available, and that depends, in turn, on the money on hand and the dated money equivalents of non-money assets.

Valuation and state of affairs

What evidence, then, do the documents examined afford on the valuation practices by which the quality stipulations were given effect? Relatively few of the forty-six partnership contracts referred to in Table 1 contained specific valuation provisions. Eleven required that, periodically, an 'inventory and valuation' be made. In five cases, the valuation was to be a fair and reasonable valuation in the opinion of the partners. In six cases reference was made to the cost price, prime cost or net cash cost of stock in trade. Thirteen references were made to allowances for bad and doubtful debts. Some contracts provided for valuation of the stock, property and effects by named independent persons knowledgeable in the trade of the partnership. The contract of St. Rollox Foundry Co. (1830) provided that stock on hand would be valued at prime cost, debts receivable at nominal amount less 15 per cent against the risk of collection and that 'effects' would be valued 'as near as may be at the rates they would bring at a public sale'. The 1858 contract of James Finlay and Company, formed by the union of two antecedent partnerships, declared that 'the realisable worth of the property at the time, as far as the same can be ascertained, shall be made the basis' of annual valuations made with the object of striking the annual balance.
The pertinence of selling price and realizable value is more clearly exemplified by provisions of the deeds of settlement of a number of the banks mentioned previously. The Huddersfield deed from which parts have already been cited reads: 'in each such stock-taking, reference shall be had to the then value of the funded and all other property of the company, which shall be estimated, not at the cost, but at the then selling price thereof; so that the real state of the affairs of the company may in such statement plainly appear'. Of the fifty-five bank deeds that gave a general valuation rule

* twenty-six were of the style - 'not at the cost but at the then selling price ... so that the real state of affairs may plainly appear'; and

* twenty-nine were of the style - 'at the then fair estimated value [or, fair value as estimated by the directors as nearly as may be] ... for fully manifesting the state of affairs'.

Deeds using the selling price mode refer to the real state of affairs; those using the estimated value mode refer to state of affairs. What is signified (if anything) by the two differently described valuation rules has not become apparent. But a distinctive feature of the first group is the deliberate exclusion of cost as a possible basis of valuation of property. It is not easy to identify the reasons or the occasion for this. There are several possibilities.

First, valuation at cost may have been known to be misleading as a representation of a dated state of affairs. If there had been notorious cases of misdirection in the recent past, there may have been good cause to proscribe the use of cost. Second, the common-sense argument for the use of selling price may have been sufficient. References to the whole estate, the true state and the capacity to meet debts and obligations are strictly not consistent with the valuation at cost of property of any kind.

The third possibility has to do with the changing style and scale of business ventures about the turn of the nineteenth century. Small firms and partnerships of persons actively engaged in common business could well conduct their affairs on the basis of periodical balance accounts in which assets were stated on an agreed or 'reasonable' basis. Whatever basis was in fact used, the owners or partners could ascertain the state of affairs from what the account showed and their knowledge of the going market prices of merchandise and other property. Partnership contracts generally secured to the parties the right of access to the partnership books and records. It would be inconvenient, to the point of impossibility, to provide similar access to the membership of the larger partnerships and companies that grew out of increasingly capital-intensive business. Instead of a balance account in the ledger, representing the state of affairs, a summary of that account – a balance sheet separate from the accounts – became the source of financial information to members. From a summary, in lieu of the detailed balances in the balance account, it would be impossible to discover the going market prices of the properties. From the differently dated cost prices
of those properties it would be impossible to calculate the commonly dated selling prices, which would give the only kind of aggregate that would both be indicative of capacity to carry on business and meet outstanding debts, and be comprehensible to member-investors.

Whether these three considerations, singly or in conjunction, were responsible for the forms of words that appeared in the deeds that prescribed the use of 'realizable worth' or 'selling price' is not known. The deeds were no doubt drawn up by solicitors or attorneys on behalf of the promoters of the companies, in a manner they had found to be or believed to be satisfactory bases of agreement among potential members. The bank deeds examined, which excluded cost and specified selling price, were spread over sixteen years (and, indeed, the 1881 articles of association of the Carlisle City and District Banking Company specified valuation 'not at the cost, but at a price not exceeding the then value or selling price thereof, so that the real state of the affairs of the company may plainly appear'). It seems improbable that the forms of words used in deeds and contracts during the later 1820s and early 1830s would be unfamiliar to the legislators who, over the next decade, hammered the new general companies act into shape.

The Joint Stock Companies Acts, 1844, 1856

The object of the legislation was to make possible the incorporation of companies by registration, subject to some official oversight. To trade with limited liability had, for some time, been a grant of privilege by the Crown. The privilege became generally accessible to companies (with some exceptions) by registration, under the Limited Liability Act, 1855. The limited recourse of company creditors to the assets of company members would then be compensated to some extent by the periodical information on the assets and debts of companies, the balance sheets and auditors' reports filed with the Registrar of Joint Stock Companies. Some eighty years earlier, Postlethwayt had said: 'I must confess that I have not discernment enough to discover why the books and accounts of trading societies, any more than those of the public offices, where the state of the national revenues is registered, should be kept private, when the interest of the public requires otherwise' (1757: 1, 385). In the course of the debate leading up to the legislation, William Clay had advanced the formula: 'limited liability; paid up capital; perfect publicity' (1836[1936]: 69). J. S. Mill was later to write: 'The law is warranted in requiring from all joint stock associations with limited responsibility ... that such accounts should be kept, accessible to individuals, and if needful, published to the world, as shall render it possible to ascertain at any time the existing state of the company's affairs ... the fidelity of such accounts being safeguarded by sufficient penalties' (1848[1940]: 900).
The provisions of the acts of 1844 and 1856 were much less full than the provisions of the contracts and deeds cited here. Of course, the legislation was concerned with an extensive array of matters, necessarily made explicit in the first general statutes of their kind. Provisions relating to the truth of accounts and the view they were required to give of the state of affairs had long appeared in the constitutive documents of firms. Perhaps it seemed unnecessary, given the style of these provisions at the time, to say more than the 1844 Act and the 1856 model regulations said. The limited liability company exemplifies a situation in which more powerful or privileged parties (the directors) exercise superior status and knowledge in part, at least, in the interest of less powerful members and creditors. The periodical publication of balance sheets was to be the safeguard against misuse of that power and knowledge. The words ‘full and fair’ and ‘true and correct’, used with reference to balance sheets and the view of the state of affairs, could be interpreted in no other way than in accordance with their plain, natural or common meanings.

That there were to be actual valuations taken from time to time was affirmed in subsequent years in the courts. In *Ex parte Holme* (1852) 22 L.J. Ch. 226 it was held that a company having a deed similar to that of the Huddersfield Bank ‘are to keep a true account of their transactions . . . and to exhibit the actual value of the property’. In *Binney v The Ince Hall Coal and Cannel Company* (1866) 35 L.J. Ch. 363, it was held that divisible profits were to be ascertained by, *inter alia*, ‘taking stock and putting a value upon all the assets of the company’. In *City of Glasgow Bank v Mackinnon* (1882) Court Sessions Cases 4th series 535 it was held that ‘in order to ascertain the profits earned and divisible at any time . . . a fair or more properly bona fide valuation of assets [must be made]’. (For the dicta in these cases, see Reid, 1986.) The same view was held in *Re Spanish Prospecting Co. Ltd* (1911) 1 Ch. 92.

How contemporary practice has come to deviate from the principles deemed in the mid-nineteenth century to give a true and correct view of the state of affairs is a matter to which inadequate attention has, as yet, been given. But several things are certain. The basic conditions of commercial intercourse have not changed in the past 150 years. The only potentially reliable source of information on the financial position and profits of companies available generally to other parties is their published statements. And they are reliable as indicators of solvency, and of capacity to continue or to vary present styles of business, only if assets are represented by recent approximations to selling prices. There is no warrant for supposing that the terms ‘true and correct’ or ‘true and fair’ once had, or now have, any meaning other than the plain and natural meanings of their components; for, in the material examined, only occasionally did the words occur together, and they were but couples of perhaps a dozen terms which would have served equally well. The idea that they were, or are, terms of art, to be interpreted otherwise than in accordance with their plain and ordinary
meanings, has been examined at length and critically in another place (Chambers and Wohlzer, 1990).

**Summary and Conclusions**

The material presented is considered to establish a *prima facie* case for two propositions: (a) that 'true and correct' and 'true and fair' and like terms are simply expressions in the vernacular of the intent that financial accounts and summaries shall be false to the dated financial facts of companies in no significant respect; (b) that in respect of property and other assets, the use of market selling prices, as in the ordinary course of business, and not cost prices, would give the required view of a dated state of affairs and dated profits or results.

By intention the exploratory exercise ranged over a variety of sources and material. It was prompted by the belief that an emphatically stated and long-standing rule or expectation could be found to have determinable antecedents, if not a definite date of origin. This would require consideration of a variety of potential origins. Further, if the variety of sources yielded mutually supportive or convergent evidence, the case for the conclusion, whatever it might be, would be stronger than an equal or greater number of exhibits of the same kind or class. Of course, mutually supportive or convergent evidence would also warrant the contention that the conclusion represented a widely held belief, and not simply the belief of a singular and specialist segment of the general community having its own distinct view on the matters in question.

The material examined straddles the dates of the earliest companies acts. The idea that true accounts should be kept and true periodical summaries should be prepared survived. What else could be expected than that, for the information and protection of members of companies and other parties, the records and summaries should be truthful and consistent with dated facts? The concurrent specification of cost and prime cost and of market selling prices in different contracts and handbooks was noticed. This, however, was to be expected when there were concurrently firms in which the managers were owners, and firms in which owners were remote from day to day management and would have no access to information on the up-to-date prices of assets. There is clear evidence that up-to-date valuations were expected to be made of assets, even from as remote a time as Pacioli's. Indeed, to give any other valuations than up-to-date money equivalents of assets would violate the trust which others do, and must, place in the solvency and the financial substance represented in financial statements of companies that operate under the cover of limited liability.

The evidence seems to converge on the conclusion that a full and fair balance sheet and a true and correct view of the state of affairs would not be given unless asset valuations were such that the money and money's
worth available to meet debts and otherwise to carry on business were fully and fairly depicted.

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Notes

Some of the material on which this paper draws has been accessible and has been cited in previous work. The greater part of it, however, arose from investigations during brief visits to the United Kingdom in 1989–90. For the grant to Chambers of a Gordon Fellowship (1989) and for funding subsequent inquiries of us both, we are grateful to Deakin University and its officers. Thanks for aid in a variety of ways are extended to the following institutions and their officers: Public Record Office, London; Scottish Record Office, Edinburgh (especially Peter Vasey); National Library of Scotland, Edinburgh; House of Lords Record Office, London (especially Katherine Bligh and David Johnson); Guildhall Library, London; British Library of Political and Economic Science, London; The Archives, University of Glasgow (especially Michael Moss and Alma Topen); Library of the Institute of Chartered Accountants, London (especially Averil Dennis); Middle Temple Library, London (especially Stuart Adams); Royal Bank of Scotland (especially Christina Robertson, Archivist); Midland Bank PLC (especially Edwin Green); Barclays Bank PLC (especially Jessica Campbell, Archivist); Lloyds Bank PLC (especially John Booker, Archivist); National Westminster Bank PLC (especially Fiona MacColl, Assistant Archivist). For various hints and clues, we also thank Sidney Gray, Ronald Ma and Michael Mepham.

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1 Inclusion of the terms 'full and true accounts' and 'exact balance sheet' in the Companies Clauses Act 1845 (8&9 Vict. c.85, ss.115–16), which applied to statutory companies, is further evidence of the range of terminology in use at this time.

2 It should be pointed out, of course, that a more detailed specification is contained in the Companies Clauses Act 1845, which refers to the need for 'a true statement of the capital stock, credits and property of every description belonging to the company, and the debts due by the company at the date of making such balance sheet, and a distinct view of the profit or loss' (s.116). Why the legislators chose a different form of words so soon after the 1844 act is an intriguing, but separate, question.

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Where two dates are given in the text for any source, the first is the date of original publication or of an earlier edition than the source used. The page references in that case are to the source used.

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