Double Crossed

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The Failure of Organized Crime Control

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Introduction

Before the Cold War there was no fixed understanding of the phrase "organized crime," but the trend towards a reduced understanding of organized crime had already begun. Whole areas of American organized crime history were unknown or unrecognized by early twentieth-century Americans. Systematic crimes of fraud and violence against native and African Americans were either excused as the result of a "higher" racial law, or forgotten by the beginning of the twentieth century. The commentators and academics who did most to develop the literature on organized crime, did not, for example, consider the systematic criminal activity directed against native Americans and African Americans as crime let alone organized crime; "the Indian problem" and "the Negro problem" were not for them part of the "organized crime" problem.[1]

* * *

By the end of the nineteenth century, businessmen were the people of power in America and they were developing new ideas about the role of government. Their predecessors usually held that governments should do little more than maintain order, conduct public services at minimum cost, and subsidize business development when appropriate but otherwise do nothing to disrupt the laws of free competition. Twentieth-century businessmen, however, expected much more government involvement in the economy and society, and many became active participants in the era that would later be labeled "Progressive." Business interests could not initiate or control all economic and social reform during these years but, as several historians have demonstrated, they could set outer limits on what would succeed.[2] By the time of the First World War, although mainstream American thinking had become pro-state, businessmen succeeded in ensuring that it also remained just as pro-business and dedicated to private profit as before. In the new regulated business environment, capitalism was to be checked but not in ways that constituted any effective deterrent to organized crime activity within legal markets.

The systematic criminal activity of businessmen, as we shall see, was considered to be a serious problem until around the time of the First World War. After that, corporations successfully disassociated themselves from the taint of any kind of organized criminality.

1
The Rise and Fall of Muckraking Business Criminality

Americans at the beginning of the twentieth century would have been as likely to associate organized criminality with the schemes and practices of the rich rather than the poor. They would as likely look for coordinated criminal activity among native-born businessmen or politicians rather than groups of foreigners finding their way in a strange new land.

The sense that the real problem of crime and corruption stemmed from the top of the economic and social order grew with rising working class and farmer militancy towards the end of the nineteenth century. Henry Demarest Lloyd crystallized these feelings in 1894 in *Wealth Against Commonwealth*, when he wrote a scathing exposé of the Standard Oil Company. His conclusions were that,

> If our civilization is destroyed, it will not be by … barbarians from below. Our barbarians come from above. Our great money-makers … are gluttons of luxury and power, rough, unsocialized, believing that mankind must be kept terrorized. Powers of pity die out of them, because they work through agents.[3]

The new American order came under increased scrutiny and criticism at the turn of the nineteenth and twentieth centuries. Many more writers denounced the systematic criminal activity of the powerful. These writers, who included Ida Tarbell, Lincoln Steffens, Upton Sinclair, Ray Stannard Baker and Samuel Hopkins Adams, showed in graphic detail how the practices of big business and their allies in politics were corrupt, destructive and often illegal. Ida Tarbell, in particular, made a devastating case against John D. Rockefeller and Standard Oil, finding that they had normalized business criminality from “bankers down to street vendors.” “In commerce,” she wrote, “the interest of the business" justifies breaking the law, bribing legislators and defrauding a competitor of his rights. This business creed, she concluded, is "charged with poison."[4]

Various forms of organized business fraud and theft were common. One notable example involved the combining of various New York street railways into the Metropolitan Street Railway Company by William C. Whitney and Thomas F. Ryan in the early twentieth century. This merger, according to the historian Gustavus Myers, was "accompanied by a monstrous infusion of watered stock." Worthless stock was sold to the public while Whitney and Ryan became multimillionaires. A contemporary noted that the "Metropolitan managers have engaged in a deliberate scheme of stealing trust funds, their own stockholders' money. Their crimes comprise conspiracy, intimidation, bribery, corrupt court practices, subordination of perjury, false reporting, the payment of unearned dividends year after year, the persistent theft of stockholders' money, carried on over a long period by a system constituting the basest kind of robbery."[5] Although this scandal attracted press attention, other forms of intimidation, bribery and destruction of evidence went largely unremarked, and Whitney and Ryan kept their looted millions and even enhanced their reputations. The world they operated in worshiped money whatever its origins.

Fraud, larceny, bribery and exploitation on an immense scale were revealed in many businesses including oil, meat, sugar, railroads and life insurance. The case against big business criminality was made in popular magazines like *McClure's*, *Hampton's*, *Harper's Weekly*, *Collier's* and *Success*, novels such as Upton Sinclair's *The Jungle* (1906), and to a lesser extent in the popular newspapers of the day.

Muckrakers were able to use the government statistics to expose malpractice in many business practices and to call for these practices to be criminalized. Safety at work was an afterthought for the bosses. United States Bureau of Labor experts estimated that at the turn of the century industrial accidents killed 35,000 workers each year and maimed 500,000 others. The United States Geological Survey reported in 1908 alone that 3,125 coal miners in the previous year had been killed and 5,316 injured. The survey explained, however, that the figures did not give "the full extent of the disasters, as reports were not received from certain States having no mine inspectors."[6] As

David Rosner and Gerald Markowitz concluded in *Dying for Work: Workers' Safety and Health in Twentieth Century America*, "Speed-ups, monotonous tasks, and exposure to chemical toxins, metallic, and organic dusts, and unprotected machinery made the American workplace among the most dangerous in the world."[7]

Informed American opinion was never more conscious of the cost and the consequences of organized business crime than at the beginning of the twentieth century. Following in the tradition of Henry Demarest Lloyd, many writers found that America's barbarians came from above.

Lincoln Steffens, in *The Shame of the Cities* (1904), revealed corrupt alliances between business and politics at a local level. He detailed different types of corrupt activity in six major cities beginning with St. Louis. St. Louis exemplified "boodle" where public franchises and privileges "were sought, not only for legitimate profit and common convenience, but for loot." The results were "poorly-paved and refuse-burdened streets," and public buildings such as the City Hospital that were firetraps in a city that boasted of its wealth. Steffens found that "the big businessman" was the chief source of corruption in every city he visited: "I found him buying boodlers in St. Louis, defending grafters in Minneapolis, originating corruption in Pittsburgh, ... and beating good government with corruption funds in New York. He is a self-righteous fraud, this big businessman ... it were a boon if he would neglect politics." "The spirit of graft and lawlessness," he concluded famously, "is the American spirit."[8]

Few informed Americans would have disagreed with Steffens' verdict.

The academic who came closest to articulating a new understanding of modern crime based on the avalanche of evidence of business wrongdoing was Edward A. Ross in *Sin and Society* (1907). Ross argued that lawless and destructive business practices had created a need for a redefinition of ideas about crime. Ross summarized the organized criminality of men of power as follows: "The director who speculates in the securities of his corporation, the banker who lends his depositors' money to himself under divers corporate aliases, the railroad official who grants a secret rebate for his private graft, ... the labor leader who instigates a strike in order to be paid for calling it off, the publisher who bribes his text books into the schools." The "criminaloid," as Ross termed the criminally powerful, was

> [too] squeamish and too prudent to practice treachery, brutality, and violence himself, he takes care to work through middlemen. Conscious of the ... difference between doing wrong and getting it done, he places out his dirty work. With a string of intermediaries between himself and the toughs who slug voters at the polls, or the gang of navvies who break other navvies' heads with shovels on behalf of the electric line, he is able to keep his hands sweet and his boots clean.

"Thus," Ross concluded, the man of power "becomes a consumer of custom-made crime, a client of criminals, oftener a maker of criminals by persuading or requiring his subordinates to break law." He informs agents what he wants, provides the money, insists on "results," but "vehemently declines to know the foul methods by which alone his understrappers can get these – results." Not to bribe but to employ and finance the briber; not to shed innocent blood, but to bribe inspectors to overlook your neglect to install safety appliances: such are the ways of the criminaloid. He is a buyer rather than a practitioner of sin, and his middlemen spare him "unpleasant details." Ross' book was prefaced by a letter from President Theodore Roosevelt. Roosevelt was "in full and hearty sympathy" with Ross' views: "You war against the vast iniquities in modern business, finance, politics, journalism." "As you well say," Roosevelt continued, "if a ring is to be put in the snout of the greedy strong, only organized society can do it." Although Ross and Roosevelt shared many of the race and class assumptions of their elite contemporaries, they also understood that the new type of criminal was far more dangerous than "his low-browed cousins" or the "plain criminal."

By pointing out that the sins of modern industrialists were more destructive than more familiar, older forms of crime, Ross was thus attempting to broaden the definition of crime. Big business "criminaloids" robbed and killed on a much grander scale than before but, "so long as morality stands stock-still in the old tracks, they escape both punishment and ignominy. The man who picks pockets with a railway rebate, murders with an adulterant instead of a bludgeon, burglarizes with a 'rake-off' instead of a jimmy ... does not feel on his brow the brand of a malefactor." "Like a stupid, flushed giant at bay, the public heeds the little overt offender more than the big covert offender."[9]

Ross and Roosevelt had found, like many other Americans, that business crime was also organized crime. Millions of Americans, informed by national "muckraking" magazines, newspaper reports and legislative assemblies, would have placed the most dangerous organized criminals among the political and corporate elite. From the end of the Civil War to the First World War, scandal after scandal, revelation after revelation, would have confirmed this assessment.

Ross' recommendations on addressing organized business crime involved making directors individually accountable for "every case of misconduct of which the company receives the benefit, for every preventable deficiency or abuse that regularly goes on in the course of business." "Strict accountability," he continued, would send flying the figurehead directors who, when the misdeeds of their protégés come to light, protest they "didn't know." It would bar buccaneering insiders from using a group of eminent dummies as unwitting decoys for the confiding investor or policyholder. It would break up the game of operating a brigand public service company (owned by some distant "syndicate") from behind a board of respectable local "directors" without a shred of power. And accountability would be enforced by the reality of prison rather than the "flea bite" deterrent of fines. "Never will the brake of the law grip these slippery wheels until prison doors yawn for the convicted officers of lawless corporations."[10]

Through a manipulative process, as we shall see, only a few remaining American dissenters felt that organized criminals came from above by the 1940s; the majority had been convinced that the serious organized criminals came first from foreign and immigrant stock. Organized business crime was, by then, not considered to be organized crime. This process involved smoke, mirrors and a large amount of brutal financial power.

In the following decades there were far fewer indictments of what is now known as corporate crime and violence. Lawyers and other business representatives colluded with government legislators and regulators and continued to help many corporations circumvent or ignore much of the legislation passed to protect workers and consumers. On health and safety at work, for example, a new class of industrial psychologist tended to find the causes of workplace injuries and deaths in the defects or carelessness of individual workers rather than factors which affected profitability, such as rate of production or adequate safety devices and adequate lighting. Corporate violators were occasionally discovered but rarely faced more than the minor deterrent of fines. Organized business crime, therefore, continued to cheat large numbers of American workers, consumers and taxpayers, and cause the death and injury of thousands of Americans.

* * *

For all the revulsion at the criminal and destructive practices of big business, the period of Progressive reform did not lead to a diminution of corporate power and influence in American society. By the time Woodrow Wilson, the president most associated with progressivism, took office in 1912, the age of muckraking was over. Many of the magazines which had publicized the crimes of big business found themselves faced with damaging libel costs or forced out of business in other ways.

In 1910, *Hampton's*, for example, had run a series of articles on the rise and illegal practices of the giant New York, New Haven and Hartford railroad, despite receiving threats of reprisals. From that time on, as the historian Louis Filler narrates, the magazine's owner, Benjamin Hampton, was marked:

> Spies ferreted their way into his offices, and one in the accounting department found the opportunity to copy out the entire list of stockholders. Each stockholder was separately visited and regaled with stories of how Hampton was misusing company funds. Wall Street agents of the railroad made extraordinary bids for the stock in order to indicate it was losing value.[11]

Hampton, recognizing the threat, convened a committee of stockholders and received endorsements for $30,000. These were then taken to the bank and accepted. Hampton was able to draw money on them until, the following day, he was ordered to return the money and take back the notes from the bank. "Such banking practice was illegal," Filler continued, "but the manager of the bank told Hampton that he was powerless to do anything else; 'downtown' people were giving the orders, and he had to take them." The downtown people he was referring to were associated with J.P. Morgan, the most powerful investment banker in the United States:

> Hampton now tried and failed to float a loan. One banker who declared that he would stand by Hampton in his crisis, whether the "Morgan Crowd" willed it or not, was forced to stop his transactions and was himself forced out of business within several months.
>
> Within ten days Hampton had to turn his affairs over to his lawyers. Facing receiverships, he chose what seemed the lesser of two evils; he relinquished the magazine to a group of promoters who offered impressive introductions and gave promises that the magazine would be fully supported. In a few months Hampton became convinced that the new owners had no intention but to loot the magazine. He was later told by the bookkeeper that they abstracted $175,000 from the property, and then took the books down to the East River and threw them from a bridge.[12]

Other muckraking outlets were also destroyed or their editors expediently turned away from exposing the corporations towards safer subjects. The muckrakers themselves either had to go along with the pro-business tide or look for careers outside mainstream journalism. Criticizing the powerful was not a good career move.

* * *

By the end of the First World War, crime commissions had been set up to put pressure on the police and the courts to enforce laws against any crimes that adversely affected business interests. They collected facts and expert opinion on aspects of the crime problem and issued reports and statements to the media to win support for specific recommendations to improve the efficiency and honesty of criminal justice and law enforcement.[13]

The most influential of these, in terms of capturing the organized crime concept, was the Chicago Crime Commission (CCC). This was set up by local businessmen in 1917. It was described by its first director as:

> An organization of bankers, business and professional men who are applying modern business methods to correct a system which has, through inertia, been allowed to grow up in the departments of state and municipal government having to do with the prevention, apprehension, prosecution, and punishment of crime and criminals ... The Chicago Crime Commission is purely and simply an organization of business men determined to do its duty, without fear or favor, to the end that organized crime in Chicago is destroyed.[14]

Because the CCC, like other commissions, was funded by business it did not see organized business crime as organized crime. As we shall see, the commission and other representatives of the business community began to focus on the sons of immigrants as representative of something they claimed was new – crime organized as a business. Crime commissions in general tended to ignore organized criminality within legal markets and focus public attention on organized criminality in illegal markets such as alcohol during Prohibition and gambling during and after the repeal of the Eighteenth Amendment.

* * *

From the second decade of the twentieth century to the late 1960s, "investigative" reporting meant for the most part exposing soft targets and inventing threats in ways that would often benefit and rarely challenge the interests of corporate America. Academics tended to shun the topic of organized crime unless it was to be located firmly at the bottom of American society, as in the case of the two early classics of organized crime literature, Frederic Thrasher's *The Gang* (1927) and John Landesco's *Organized Crime in Chicago* (1929). Ways were found to excuse or ignore business criminality or explain it as a deviation from normal practice. Even when big business criminality was too blatant to ignore, the business class and their allies in the press found ways to ensure that the status quo was not unduly disturbed.