Introduction

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Criminal Conversations

On 11 August 1859, the Daily Telegraph headlined an “Extraordinary Case of Crim. Con,” brought before Mr. Beadon, the stipendiary magistrate of the Southwark Police Court. It is a telling headline in a number of ways. The actual charge (eventually dismissed) was theft of “an old pair of trousers,” but the circumstances in which the abstraction of the trousers took place revealed a pretty piece of adultery—and as the reporting indicates, for contemporaries, it was the immoral conduct that provided the real offense in this case.1 Both headline and content of this report point up the extent to which Victorians saw much that was criminal in the strict legal sense as being also socially criminal; perpetuating the reality that such socially offensive dimensions to law-breaking could be at least as important as the legal dimensions when it came to convicting or acquitting defendants, and to believing or disbelieving witnesses and accusers. Such (often tacit) understandings and conventions formed part of a high profile contemporary debate or “criminal conversation” about the nature of crime and criminality and those who practiced it.

Criminal Conversation, or Crim. Con, in contemporary shorthand, was the term used to describe a husband’s civil action for the “crime” of adultery where damages could be claimed against their wives’ lovers—though it could not be used in reverse. As well as a legal meaning, it acquired a widespread popular one, with the ubiquitous sobriquet “crim. cons” being used to describe scandalous gossip about illicit relationships, initially in high society.2 It spread the idea of “criminal conversation” beyond the strict legal definition of the phrase, and this volume takes the idea still further. The concept of scandal-based gossip disseminated through the print media (especially
newspapers), of debate and discussion in the press about ideas and people which aroused social panic and moral outrage in a public arena is used to underpin this thematic compilation of surveys of the types of scandal (or would-be scandal) which came before the public gaze of Victorian England, and so helped to shape the Victorian mind, not in its high intellectual dimensions, but in its more everyday preoccupations and worries. After all, Bagehot himself likened London to a newspaper! Notice is also taken of ways in which the Victorian experience resonates with present preoccupations.

Such an approach raises issues about ways in which scholars “read” how the Victorians themselves read newsprint and the associated text productions focused on in this collection. As Stewart points out, “discourse analysis . . . is not simply what we practice on the Victorians but what they performed for themselves.”4 Discourse and discourse analysis provide problematic areas for an interdisciplinary collection, because of the differing usages which have become established in individual disciplines of this much used (arguably abused) concept. However, despite the apparent laxity of the use of “discourse” in this collection, all the contributors understand it as referring to types of text (with or without illustration) conveying information and ideas, and consciously produced according to the conventions of a particular profession or interest group. Such products were also consciously read by their recipient audiences. There is no intention to claim that Victorians read newspapers without being well aware of the agendas behind their various stances. In fact it was this consciousness which guided the choice of title. There was, after all, no restraint on who bought what beyond that of price.

We have emphasized the term “conversation” in this collection, because this serves to remind us all that the Victorians consciously engaged in debates through the forum of newsprint relating to what may be termed social subjectivity. It was these “conversations” which inspired how and what they wrote and read about bad behavior and crime, shaping the shifting consensus about what constituted unacceptable conduct and its appropriate penalties. Consequently, explorations of this particular theme, of crime and bad behavior, provide wider insights into Victorian society which are not otherwise readily obtainable, promoting a greater understanding of how the internal bonds of that society actually operated. In this, it is not intended to claim an empathy with Victorian perspectives on offensive behavior when echoes of that experience chime with current preoccupations. Darnton’s point that figures in the past did not think as we do remains valid, meaning that the nuances of how and why the Victorians reacted to particular situations as they did, and how they interpreted the coded language of Victorian reporting, will always remain a matter of speculation, not knowledge.5 However, accepting the past as a distant country does not mean that certain features of that other land-
scape cannot be recognized as elements in a persistent human experience, and fear of the consequences of crime and bad behavior is undoubtedly a constant.

Spreading the Word: The Victorian Press

The Victorians regarded the role of print, especially newsprint, as crucial in promoting and mediating mass consent to the operation of the legal system and the accompanying sociocultural processes of identifying and punishing transgressors. The press proffered, for public appraisal, a daily diet of reports of cases and trials from primarily the summary courts but also the higher courts. Perceptions of what was and what was not acceptable conduct inevitably shifted over time, as a result of a range of socioeconomic changes and a range of imprecise cultural factors. Press conversations helped ensure the maintenance of popular consent to the operation of the legal system, which was in turn dependent upon a sociocultural spirit of agreement which reinforced (or replaced, where strict legal boundaries were not crossed) legal decisions.

That this was not automatically achieved is powerfully indicated by the alarm which the case of the Tichborne Claimant aroused. Bringing to trial Arthur Orton in 1875 for falsely claiming to be Sir Roger Tichborne was intended to signal to the public the unacceptability of varieties of deceit implicated in his claim. Working-class Orton had attempted to pass himself off as a member of an ancient upper-class family, thereby gaining wealth in the shape of both social status and money, and the potential for wielding considerable power, social, economic, and even political. The Claimant's trial sharply divided Victorian Britain along class lines, and the newspapers reflected this. The Times, for instance, was profoundly hostile to the Claimant, whereas Reynolds News (edited by that ex-Chartist George Reynolds) was vehemently supportive of his claim. This division, though, was significantly different to the general consensus. While there were regular differences, for example over the presentation of trades union disputes when these arrived in the courts, what is far more striking to anyone reading across a range of titles on a daily basis, for any one year, is the degree of conformity about what constituted the kinds of cases which should be reported, and the important aspects of a particular case, in terms of verdicts and comments from judges, magistrates, and counsel.

Victorian newsprint spread gossip about transgressions far beyond local circles and communities, transforming relatively minor incidents into causes célèbres of national proportion. Storylines featuring crime and bad behavior, often accompanied by scare-mongering rhetoric, were a major feature of the
Victorian press. From the formal police court and other legal reports, to features and articles of gossipy speculation on wrongdoing and wrongdoers, bad behavior sold well. Titles known to feature these in abundance sold particularly well to audiences across class boundaries, something that the *Daily Telegraph*, the *Illustrated London News*, and the *News of the World*, for instance, understood thoroughly. Justified by claims to expose such conduct for the good of society, as a warning to the respectable and innocent of the perils which beset them, newspapers and periodicals ensured that the reportage of bad behavior and crime appealed across class and gender divisions, and fictionalization of popular real-life dramas enhanced that appeal still further. Thus, the *Daily Telegraph*, noted for its sensational crime reporting, could on the one hand “deplore the effect on the public mind” of their reports of certain types of incident, and on the other, argue that:

So far as the public is concerned the newspapers must report the proceedings... [for]... if one paper abstained, twenty others would take its place and nothing would be gained by the public... on the broadest grounds of common interest, it is better that society should be occasionally shocked with the report of the most detestable charges than that judicial proceedings should at any time take place in secret, or that crime itself should derive a fatal safety in continuity from the secrecy accorded to it by an abuse of decorum.9

This is a very revealing comment, not only because of the claims made but also because of their location, emphasizing the public dimension.

One of the features of British Victorian society was its apparent openness in public reporting of key areas such as crime and its punishment. If, after 1868, the much reduced numbers of executions were removed from the direct public gaze, details were still reproduced in the newspapers, providing assurance of punishment accomplished and justice completed. Views and images of prison life were authentically portrayed reinforcing Foucault’s assertion that punishment always has a wider social dimension beyond the specific incident, locating both the crime and its retribution in cultural contexts relating to contemporary social concerns.10 Focus on both the legally and the socially offensive in any period can therefore provide substantial insights into the broader spirit of that age. The Victorian period was not unique in this, but new technology, new living and working patterns, and the rise of a class-based society obsessed by concepts of respectability combined to bring a genuinely new dimension to popular understandings of, and participation in, the processes whereby a broad consensus was achieved about what constituted acceptable social conduct. This is not to claim it was an easy or a static con-
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sensus. It was an age where, as contemporary crime reporting underlines, what can seem agendas of social control were in fact strategies of socialization. There was widespread accord about the desirability of respectability, if not always about the precise methodology to achieve it.11 It was in this maintenance of consent and debate over methodologies that the Victorian print media played so crucial a part, but despite the growth of scholarship in newspaper history and journalism there has been little substantial investigation into the reporting of crime and the legal process in the Victorian age.

Crime Talking and Crime Reporting

This was the first age of mass-circulation newspapers and periodicals and the beginnings of journalism emerged as a recognizable modern profession. It is not our intention to narrate the history of such developments, going over ground well covered, notably by Lucy Brown in her study of Victorian newspapers, and in the range of discussions included in a number of useful collections on the nineteenth-century media,12 What this volume sets out to do is locate print conversations about crime and bad behavior in their wider cultural contexts. Despite its importance to the success of Victorian newspaper titles, little sustained attention has been given to the coverage of offensive conduct. Works such as Altinck’s *Study in Scarlet* and *Evil Encounters* still set the tone.13 These highlight the sensational dimensions involved but do not investigate the actual process of reportage, especially the substantial coverage daily given by most national and local titles to proceedings in the courts, summary and higher, where the key interpretation of a particular event, in terms of the decision to convict or acquit defendants, took place. Yet it was, in Foucauldian terms, through such reportage that society worked out the classification to be assigned to a particular offense, with, as W. G. Gilbert put it, making “the punishment fit the crime.”14 What was different about nineteenth-century reporting of legal proceedings, which forms the bulk of Victorian crime reporting, is that the majority of reporters were not the professional journalists considered by scholars such as Nigel Cross, Joel Wiener, or Laurel Brake, but rather legal personnel amplifying their incomes by writing, anonymously, for the press—something explored in more detail by this volume’s editors in a previous collection: *Behaving Badly*.15

There remains some reluctance to recognize the importance of the Victorian print media as a channel through which popular consensus evolved over issues of offending, partly because in some areas, such as politics, the one-sided nature of the print conversation (except at election times, perhaps) is plain. But the debates surrounding crime and bad behavior were different.
There was a participation in the print conversation which linked to the direct audience participation in the courts themselves. Members of the public served in the higher courts as jurors, of course, but of at least equal importance, they flooded to the summary courts in considerable numbers. The lower courts (police or magistrates courts, as they were variously termed) sat on an almost daily basis, and members of the public were involved as witnesses and as spectators. It was this experience which underpinned the demand for crime news in all the Victorian press, from the respectable titles such as *The Times* to those with a more dubious contemporary reputation, such as *Reynolds News*. Dukes and dustmen all enthusiastically read about crime in a variety of newspapers aimed at such different markets. But the most striking aspect is the similarity of coverage over such a broad range of papers. People's basic ability to read (though not automatically to write) was already high by the midcentury, though levels of competency varied widely. Proportions of men in the population able to read stood higher than those of women: equally the poorer classes constituted the majority of those whose literacy was at best adequate. The reality was that newspapers played a considerable part in sustaining and increasing literacy, acquainting people with a vocabulary that they learned because of its association with thrilling and sensational stories.

Headlines regularly resorted to adjectives such as “shocking,” “horrible,” or “fearful,” and actual incidents could be presented as an “outrage” or a “scandal” if the criminal description (say, a rape or an assault) was either too indelicate or too mild to convey sufficient levels of sensation. The rhetorical language used in newspaper crime stories, especially headlines, sometimes appears to be repetitious, but this was a useful device in a number of ways. It suggested to readers the way in which a report should be read, and could be used to ensure that “big” words which best conveyed the sense of what was going on became familiar at all levels of society and reading competency. Even those unable to read (or read easily) for themselves could receive the benefit of the information through having the tales read aloud to them, as Dickens emphasized in his novels, from Mr. Wopsle's dramatic reading of crime stories in *Great Expectations* to Betty Higden's admiring testament to Sloppy's renditions of “the police” in “different voices” in *Our Mutual Friend*. Both Mr. Wopsle and Mrs. Higden were on the economic margins of respectability, but their frank enjoyment of newspaper reporting of criminal gossip provides not only a fictional reflection of a reality attested to by the numbers turning up at court proceedings, but also reflects one of the cheapest and most accessible forms of public entertainment. Nor did this disappear. At the close of the Victorian age, Sherlock Holmes advertised himself as a regular peruser of the press, often making comment on its usefulness as in *The Hound of the Baskervilles*. It must also be remembered that newspapers offered the oppor-
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tunity for public response via the space they all provided for letters from readers. While the provenance of some of these may be doubted, particularly those on political topics, it is our judgment that many of those relating to episodes of crime and bad behavior are honest responses, seeking wider engagement with a particular “scandal” or crime. Letters to the Daily Telegraph, for instance, on the sentencing of Stephen Holder to two months for participating in a game of “pitch-and-toss” provide addresses which can be checked through local directories.20 Such correspondence rarely contains criticisms of decisions to publicize particular crime episodes. Instead, letters generally served to enhance and sustain debates over the doling out of justice, and the implications of certain types of offensive conduct, indicating the correspondence element provided a flourishing channel for sustaining a criminal conversation.21 Of course the process of editorial choice makes it likely that letters would be published which joined in a conversation already featured in their columns. However, practical commercial sense would suggest that they were unlikely to have continued to publish such correspondence if it adversely affected their sales and if it was seen as entirely spurious.

Social Panic and Moral Outrage

Public scandals may be held to be episodes of bad behavior, and may or may not encompass actual legal offenses, but a common feature is their interpretation by key groups in society of the reality of the transgressions involved (including the impact on any “victims”). Where a scandal reaches national proportions, the interpretations of threat (expressed through the rhetoric of moral outrage) strikes chords across a wide range of interested groups and communities because it represents behavior considered detrimental to the health and stability of society as a whole from the perspective of these groups. Thus for what may be very different actual reasons, the result is a sense of shared panic about the wider implications of such episodes. This, clearly, relates to the concept of moral panic as outlined by Cohen, and subsequently modified by other scholars. Cohen’s original point was that “Societies appear to be subject, every now and then” to episodes of what he termed “moral panic,” where

A condition, episode, person or groups of persons emerges to be become defined as a threat to societal values and interests: its nature is presented in stylised and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops and other right-thinking people; socially accredited experts pronounce their diagnoses and solutions.22
Aspects of this model can appear, at first sight, to fit much of what is discussed in this volume. However, the contributors to this volume encourage a more complex comprehension of the role of panic, and of the role of the media in promoting manifestations of social alarm through publicizing expressions of moral outrage and suggested remedies to cope with particular types of bad behavior. The historically sensitive work of Alan Hunt, on the issues of moral imperatives, has thus significantly informed the perspectives in this collection.23

What periods of panic provide, as Hunt demonstrates, are opportunities for “moral entrepreneurs” to move in. They coalesce inchoate disquiet, and channel it against targets identified by them as the cause of offense to the community, and also suggest the due remedies to eradicate that offensiveness. It has particular resonance in the realm of crime because “honesty” is and always has been a moral, more than a legal, concept, as exhortations, past and present, to potential groups of offenders to police themselves in terms of their “integrity” underline. In other words, it is an enduring expectation that “good” behavior can be achieved as much through sociocultural pressure on the individual tempted toward transgression as through the ponderous operations of the law itself. A measure of the extent of social panic in a society is therefore the number, vehemence, and indications of public support for, demands for actual legislation to deal with crises which are perceived as specific to a “new” scenario involving transgression considered serious enough to pose a threat to social stability. The expressions of moral outrage which accompany a period of social panic involve the argument that something extraordinary needs to be invoked to deal with particular crises, since the “normal” social pressures are deemed to have failed.

We argue that certain key occurrences of Victorian scandal surveyed through the lens of media reporting provide a nuanced understanding of the nature and extent of the enduring sense of social unease and cultural tension which affected the Victorian period, an unease which was readily stirred up into episodes of social panic. A rhetoric of outrage is then disseminated through the media as appropriate and appealing moral entrepreneurs come forward to give shape and focus to a particular set of fears. Newspapers (as now) readily gave airings to the certainties of the moral entrepreneurs as they identified the “real” nature of a problem, and promoted their remedies, and in so doing, the press initiated a series of conversations with the wider public on the issue of the precise nature of the threat and the most suitable coping strategies.24 In the climate of sustained underlying social insecurity that characterized so much of the Victorian period, such entrepreneurs encouraged consciousness of the threats to social stability posed by a variety of crimes that seemed to contemporaries to be a particular attribute of the nature of Victo-
The use of print to sustain conversations also means that apparently discrete scandals interacted through such media conversations sustaining a series of both large-scale and more minor panics feeding this continuing sense of insecurity in society, and providing key insights into the Victorian age. Contributors therefore reflect on the extent to which such expressions of criminality and bad behavior were, in fact, exclusive to the period in their fundamental characteristics, as well as on the superficial characteristics which enabled Victorian commentators to present such events in ways that made them seem both peculiar to the period and location, and high profile. The cultural hypocrisies and disingenuities which surrounded the shifting boundaries between the merely offensive and actual offenses are also explored, since it was the lack of recognition of these, and so lack of reconciliation of their contradictions, which fueled both the sense of panic and the rhetoric of moral outrage which characterized, then as now, such socially uncomfortable revelations.

Investigations into the media also encourage insights into the ways in which what may seem to contemporaries to be new and “unique” problems, caused by immediate, short term factors in fact have long lasting resonances. Thus at one level, this collection deals with Victorian conversations, or discussions, which demonstrate the processes whereby the criminal nature of particular types of behavior became a matter of public concern, resulting in either new legislation, or significant modifications to existing legislation or legal practice, or to very serious attempts to introduce such. At another level, this collection reveals the confused and opaque nature of a society which defined itself as “modern” and “forward looking,” proud of new advances in technology, in political and social culture and which also sought to invoke the past to give itself a degree of legitimacy and a sense of reality. Both have important resonances for a comprehension of the contradictions and hypocrisies of the late-twentieth and early-twenty-first centuries through their investigations into the confusions of the Victorian age.

This collection has been divided up into sections seeking to reflect Victorian comprehensions of how and why crime and bad behavior were a threat. In identifying the causes and impacts of bad behavior, which occupies Section One, the starting point is the emphasis Victorians placed on respectability, something which implied conduct which was both culturally acceptable and innately law abiding. There could be almost comforting reasons why some did not achieve respectability, as debate about the so-called dangerous classes and
juvenile delinquency emphasized. But less comfort could be derived from the reality that though individual and national prosperity was, in the eyes of contemporaries, founded upon the collective effects of individual enterprise and self-help which shaped market forces, it was precisely those characteristics which (uncontrolled) produced the scandals which afflicted the age and its sense of self-worth and pride in its achievements. The general truism of the age was that only those the Victorians identified as habitual criminals pre-planned their depredations on society, and that such people were in some way set apart from “normal” society. But too many of the offenders highlighted in newspaper crime reports turned out to be “ordinary” members of society in terms of their background and behavior for Victorian comfort. Even more worrying, many had not the excuse of being driven into bad behavior or criminality by the extremes of poverty, but came to it through some impetus of self-indulgence and greed. Where did this leave the great principle of “Self-Help,” encapsulated by Samuel Smiles in his best seller? Clear, there were rather too many people taking self-help to extremes never intended by respectable society.

Examination of what contemporaries sought to identify as “external” threats to the integrity of Victorian British society occupies Section Two. Building on themes raised in Section One, chapters explore the ways in which Victorian moral entrepreneurs gave shape to the inclination to distance the causes and the perpetrators of bad behavior and crime from those possessed of intrinsically “British” (or English) values. This proclivity gave much opportunity for the development of experts to give testimony “proving” difference such as racial or sexual difference. However, the process of Victorian othering was complex and often contradictory, and experts themselves could be seen as alien and external to ordinary daily concerns, making them ready targets for distrust or at least resistance of their conclusions.

Section Three completes the picture of Victorian unease by a discussion of the threats from within which were, if reluctantly, admitted to exist. Gender and class issues feature powerfully here, and it is worth remembering that in historical terms, the concept of criminal conversation reveals important aspects of the nature of power equations in this period, as well as the importance of property to a society which, despite its advertised modernity, estimated claims to both respectability and status on the basis of a hierarchy of possessions, animate and inanimate. Originally an ecclesiastical court concern, adultery entered the secular courts initially as a misdemeanor, a classification affecting both men and women. By the late seventeenth century, though, husbands could pursue claims for damages in court against the seducers of adulterous wives, in what amounted to “a common law adaptation of the law of trespass.” Until enactment of the Divorce and Matrimonial


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Causes Act 1857, it was not a process which directly involved the woman who was the core of the claim. Instead, the men involved fought out the issue in the civilized surroundings of the King's Bench Division of the High Court, but with spectators ensuring that the less restrained process of gossip spread information and ideas about the results. Social security was assured when women, in particular, were shown to conform to expected standards when events conspired to bring them under the attention of the law, and yet in practical terms that conformity was not always possible. As the chapters in this section indicate, the Victorian legal system and the press were at times very conscious of the shifting moral ground on which justice was often delivered, but could see not easy alternative to established practice—thus ensuring a continuance of the criminal conversation.

Notes

2. The Divorce and Matrimonial Causes Act 1857 saw the end of criminal conversation as a legal action, but the popular terminology remained for adulterous incidents.
6. The press is here used to signify the activity, including the people, involved in production of newspapers.
7. For example, see *A Literary and Pictorial Record of the Great Tichborne Case* (London: *The Graphic*, 1875).
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15. Rowbotham and Stevenson, eds., *Behaving Badly*.

16. Rowbotham and Stevenson, “Causing a Sensation.”


22. Ibid.


Figure 2. *Illustrated Police News*, 11 November 1871. A typical example of a front page for editions without high-profile crimes to report, highlighting the disorderly nature of Victorian society.