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**THE EARLY DEVELOPMENT OF COMPANY LAW IN ENGLAND AND
WALES: VALUES AND EFFICIENCY**

An investigation into the extent to which the *Joint Stock Companies Acts 1844 to 1856* and the values which shaped them were consistent with economic efficiency

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KEYWORDS

Company Law; Legal History; Economic Analysis of Law

ABSTRACT

It has been claimed that “The limited liability corporation is the greatest single discovery of modern times. Even steam and electricity are less important than the limited liability company” (N.M. Butler, President of Columbia University). Indeed, there is a near universal consensus that the companies’ legislation developed in England and Wales between 1844 and 1856 represented a major change in business organisation with profound – and continuing - social and economic consequences. Despite this there has been relatively little analysis of the origins and effect of that companies legislation. This is surprising, not least in the light of the abundance of recent analysis of the theoretical foundations of the company. It represents a major weakness in both company law and economic scholarship with potentially serious consequences for those who seek to reform company law. This dissertation seeks to redress that weakness by investigating the extent to which the *Joint Stock Companies Acts 1844 to 1856* and the values which shaped them were consistent with economic efficiency. The values which shaped the early development of company law were found to be broadly consistent with economic efficiency but contradictory, for example, not only *laissez-faire* but the desire for state intervention were important. Central appear to have been the minimisation of expense and/ or inconvenience, the fear of fraud and the need for transparency of information. Making an overall assessment of the efficiency of the *1844 to 1856 Acts* themselves proved more difficult since there were found to be many provisions that were efficiency-enhancing and many which were not. Perhaps the most interesting single finding was that which contradicted claims noted at the outset that the limited liability corporation was “ ... the greatest single discovery of modern times”. Rather, from an economic perspective, the introduction of limited liability appears to have been the inevitable result of the muddled thinking behind the *1844 Act*, which required urgent corrective action in the *1855* and *1856 Acts* to protect risk-averse investors. Generally, the dissertation provides support for mainstream transaction cost economic analysis whilst casting doubt on the significance of other theories such as jurisdictional competition, regulatory capture and path dependency.