

AND PUNISHMENT

Bonfire of the Harp-ies: Punishing White- Collar Crimes.

White-collar crime is a spuriously coherent label which gets attached to an enormously variegated set of behaviours. To consider that Guinness, Barlow Clowes, Blue Arrow and Maxwell - let alone credit card or bankrupt fraud by former armed robbers - are the 'same thing' is ludicrous, though no more so perhaps than treating 'violent crime' or 'drug trafficking' homogeneously. The danger is that because people are of (relatively) high status, they will be lumped together as a social category in a way most ISTD members would abhor if the category was 'blacks' or 'gypsies'.

To enter the world of the serious fraud trial is best likened to reading Alice in Wonderland, though few defendants have their heads chopped off by the Red Judge! For example, in February 1992, four defendants were convicted in the **Britannia Park** case, some five and a half years after the initial police investigation (which was conducted as quickly as possible) and after a seventeen month trial: the heaviest sentence was four years. To many outsiders, the effort seems disproportionate to the result, though at least the costs of imprisonment were very modest compared with the £3 million spent on the trial. The **Guinness** case had to be split into four, and the Serious Fraud Office has now abandoned **Guinness II** because of one defendant's mental condition resulting from representing himself and **Guinness III** (involving the most prestigious defendant) because of fresh evidence - six years after the takeover - which makes conviction improbable. In **Blue Arrow**, the judge directed the acquittals, *inter alia*, of corporate defendants County NatWest, NatWest Investment Bank, and UBS Phillips and Drew, and of a solicitor who advised on the transactions. The four persons convicted got suspended sentences, and were neither fined nor disqualified from company directorships. The danger is that because of their complexity and the ancient legal system through which they have to pass, those who commit serious social harms may escape scot-free (although, like other professional criminals, criminal professionals are often asset-less by the time

their cases reach the courts or they have paid their lawyers).

So what is to be done about sentencing the few high-profile cases that are convicted? The first point to make is that, rather than being hidden away like those administratively 'fined' by the Revenue and Customs and Excise, the full blast of publicity is faced by any high-status persons. Fortunately, now that we have Tom Wolfe's *Bonfire of the Vanities* to serve as a mirror to any otherwise unselfconscious radicalism, we can be supportive of the rich on trial while feeling virtuous because we are not *hounding* them. We can be - and I was - suitably nauseated by the disgusting spectacle of journalists whose expenses claims would make Olivier Roux - the former Finance Director of Guinness - blanch, baying at the heels of the distressed families of the defendants who had been convicted of all but one charge left to them. The end of the Guinness trial was Justice for All time, as the jury - representatives of the We Hate Rich Jews Who Think They Are Above The Law And They Are Not Because We Have Just Convicted Them class warfare front line brigade - turned up to hear what courteously partician Mr Justice Henry would do to the 'thieves' who had been seriously rich *before* these crimes. They and as many other *voyeurs* - your correspondent included - crowded into the low-ceilinged, unatmospheric Court Two

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at Southwark Crown Court to hear the final stage in the dramaturgical White-Collar Crime of the Century be played out.

The judge knew what to do. In fairly dry tones he read out his speech on the Sins of the City to make clear what he and the jury understood but none of the defendants accepted: that what they had done was seriously wrong. The principles of genuine markets had to be upheld; the metaphors of takeover wars, of win at all costs, had to bow before the superior social principle of 'play up, play up and play the game'. There was indeed a breathless hush in the close atmosphere of the courtroom as

he told everyone that custodial sentences were uppermost in his mind to mark the gravity of the offence, and went carefully through the principles of sentencing which the accused might well not have heard previous to their Close Encounters of a Third Degree Kind with the Serious Fraud Office. It was Gentleman versus Players. Just down the road, the Test Match was being played out to a draw at the Oval. But in this game, the Players had already been told by the jury that they had lost.

After the general homily about the overwhelming evidence of dishonesty, each defendant stood up to take his medicine in turn. They had all been warned by their lawyers that they could expect to go down for a long time. But the length of time the process of *sentencing* took seemed horrendous. Terrorists and gangsters expect a short lecture on the evil of their actions, but this was too much like a penology textbook for these unreflective market practitioners.

Ernest Saunders kept up his martyred air as he was given his five years: this was a Show Trial, and he knew he was the innocent victim of an Establishment Conspiracy. For him this was merely another stage on the way to the European Commission of Human Rights and anything less would have been a subtle stratagem to reduce public (or City) sympathy with him. Next came **Anthony Parnes**, the stockbroker who had been labelled by the judge the 'recruiting officer' of the conspiracy. (Not really officer class, though: closer to an NCO, or Sergeant Bilko.) The tension of it all - the media circus and the length of the judge's homilies - were just too much. This brought about the human drama that so delighted the popular media, as he keeled over and banged his head on the bench as he fainted. The courtroom had to be cleared. The judge then pronounced sentence on **Gerald Ronson**, the self-made *entrepreneur* said to be the 15th richest man in Britain. He got 12 months in prison plus a £5 million fine. After consultation, his counsel proposed 9 months to pay, a lengthy gestation period that would allow him to realise the assets after his release from jail (and earn at least £500,000 interest on them in the meantime). As *The Sun*, with characteristic delicacy, put on the front page the next morning: '£5 million: that's fine by Ronson'.