

Crime Fiction and the Law of Fraud

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Background & Objectives

- Crime fiction stories were popularized at the start of the 19th century—with fraud becoming a primary focus
- Very little literature that explores the crime of fraud in fictions through a legal lens
- Objective is to determine **if, and to what extent, authors were influenced by the law in their depictions** through short stories from 1880-1920

How are the crimes of fraud depicted through the plots of these stories? To what extent are these depictions legally accurate? In what ways do these stories illustrate and challenge the laws of fraud?

Legal Context

- Five criteria for a crime to legally identity as a fraud were determined from Melville M. Bigelow's 1877 treatise, *The Law of Fraud and the Procedure Pertaining to the Redress Thereof*:

 "A false representation of material facts" has occurred

 The fraudster committed this false representation "with knowledge of its falsity"

 The victim(s) were "ignorant of its falsity"

 The false representation was intended to be followed through with some sort of action

 The action was followed through with, and caused damage to the victim(s)

Methodology

- This project involves the creation of a set of criteria from legal treatises and the qualitative plot-related study of each short story
- The result is **a cross-analysis between how fraud is depicted in the stories, and its legal accuracy**
- Google Scholar and the "Making the "Making of Modern Law: Legal Treatises 1880-1920" database were utilized for finding the treatises
- The "Birth of the Modern Detective Story" database was used to find ten stories

Fraud Analysis

- The chosen stories were analyzed with the following criteria and questions:

 A summary of the plot

 "Type" of fraud (i.e. disguise, financial, etc.)

 Who committed the fraud?

 Did fraud occur according to the law? According to the author?

 What was the role of the detectives? Role of the police?

 How was the crime uncovered?

 Was the fraudster punished? How so?

 What were the fraudster's goals? Any underlying motives?

 Impact or potential impact on victim(s)?

- It is important to note that the trends observed holistically across the ten stories are not representative of all fraud depictions in crime fiction during this time

Story Comparisons

- Most authors depict the fraud through a combination of methods to add to the plot's complexity
- The fraudsters are captured in seven out of the ten stories. Two of these seven have specific criminal convictions stated, with only one explicitly including a conviction of fraud
- **Fraud is observed as being the vehicle to set-up bigger crimes (such as murder), rather than the primary focus**
- The average reader is interested in an intriguing plot rather than legal details—**leading authors to not focus on legal accuracy**
- The primary motives of fraudsters are financial, with a few committing crimes for the sake of pride

Implications & Conclusion

- This project develops **a critical and invaluable context for the development of fraud depictions in 19th and 20th century crime fictions**
- The focus of authors has been to intrigue readers through complex mysteries with clever characters, rather than to chase legal accuracy
- Featuring writers from England, Ireland, and the United States, this project helps fill a literature gap for Western fraud depictions from 1880 to 1920
- This project can also **prompt academics who wish to explore non-Western crime fictions and legal history, to pursue their work through a comparative lens**

Key References

Stern, Simon, and Adam Hammond. "The Birth of the Modern Detective Story Dataset". *GitHub*, last modified 2022. <https://github.com/ahmmnd/BMDS>

Bigelow, Melville. *The Law of Fraud and the Procedure Pertaining to the Redress Thereof*. Little, Brown, and Company, 1877.

Acknowledgements

I am immensely grateful to my supervisor, Professor Stern, for his support with this project from start to finish. Thank you also to the generous support of the University of Toronto Laidlaw Scholars Programme and the Laidlaw Scholars Foundation.

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