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The Nightmare of the New Deal, Part 2

by George C. Leef

The Forgotten Man: A New History of the Great Depression by Amity Shlaes (HarperCollins, 2007); 464 pages.

Who were the good guys? They were people who fought against the collectivization favored by Roosevelt and his “brain trust.”

Shlaes devotes a full chapter to the Schechter brothers. The Schechters were the defendants in the most important legal case during Roosevelt’s first term. They ran a kosher poultry butchering business in Brooklyn and were put on trial for criminal offenses against regulations enforced by the National Recovery Administration. Shlaes has dug deep into the case and her reporting is filled with illuminating details — details that students who read the case in constitutional law classes don’t get. For one thing, the NRA rules forbade customers to select individual chickens they wanted, demanding that customers select a coop of birds for killing, but not individual birds. Both Jewish tradition and common-sense business practices had to be abandoned to conform to the authoritarian regulations of “The Blue Eagle” — the symbol of the NRA. When the Schechter brothers continued to operate as they had for years, the government agents, who had been hounding them for weeks, were only too happy to pounce with indictments.

Not only did the NRA regulations conflict with Jewish practice, but, Shlaes writes,

The NRA code did not make sense. The clash came in several areas. The first was prices. The code forbade setting prices too low, in part to combat a general “low price problem” — deflation. But one could not drive up prices generally by ordering a specific business to charge more.

Nevertheless, the Schechters (and many other small businesses across America) were prosecuted for charging too little for their products.

The coverage of the case in the leftist media was repugnant and tinged with anti-Semitism. Writers such as Drew Pearson cheered on the government, which, after all, stood for enlightened social regulation for the common good, and sneered at the “grubby” Jewish defendants and their lawyer. The trial court found the Schechters guilty, imposing a fine that would have taken them many years to pay and sentencing them to jail terms lasting up to three months. They hadn’t hurt anyone (despite sensational statements that they had sold diseased chickens, a charge shown to be untrue), and yet were looking at a ruinous penalty and criminal records merely for doing business as they always had. That was the crucial way in which America had changed: it was now easy to get into trouble over nothing.

When the Supreme Court heard the case on May 2, 1935, the government’s lawyer argued that upholding the law was essential to fighting the Depression and that the justices shouldn’t bother about individual freedom, which was merely “the liberty to starve.” Joseph Heller, who had been counsel for the Schechters all along, argued that Congress had exceeded its powers, since his clients’ business did not involve interstate commerce. Frederick Wood, a lawyer with one of the prominent Wall Street firms, contended that the increase in government power was dangerous and illegal. Shlaes writes, “He argued that it might be all right to go the way of Mussolini or Hitler, but a constitutional amendment was necessary for that, not merely an act of Congress.”

The Court’s decision was quickly reached and announced on May 27. The NRA was unanimously declared to be unconstitutional. Roosevelt grumbled that the Supreme Court was stuck in “the horse-and-buggy age,” but the stock market staged its biggest rally since 1930.

The 1940 election

Another critic of the New Deal who figures prominently in the history is Wendell Willkie. Willkie is best known as Roosevelt’s Republican opponent in the election of 1940, but few people know much about his background. He had been an old-line Democrat (generally favoring free trade and minimal government) who was a top executive in the utility company Commonwealth and Southern. What soured him on Roosevelt was the way he and his minions went after private enterprise and especially the utilities. Roosevelt never came right out and said so, but it became clear that his socialistic underlings envisioned an America with nothing but governmentally owned electric companies. The Tennessee Valley Authority was just the opening salvo in a war, Willkie understood. He was determined not to see the investments of his shareholders destroyed, and gradually became more and more of an outspoken critic of the New Deal.

Shlaes recounts a radio debate Willkie had with one of Roosevelt’s lawyers, Robert Jackson, later named to the Supreme Court. Willkie had come to see that, as Shlaes writes, “while Roosevelt might call himself a liberal, the inexorable New Deal emphasis on the group over the individual was not liberal in the classic sense.” Well prepared to counter Jackson’s claim that the

Depression was lingering because of a “strike by capital” — an instance of the blame-shifting that Roosevelt and his team liked to engage in — Willkie pointed out that the New Deal had created enormous uncertainty for business and investors. If there was “idle money” in the country, the reason was to be found in the hostility the administration constantly exhibited toward business.

The response to the debate greatly bothered “the brain trust.” Raymond Moley wrote that Willkie had utterly outclassed Jackson. Because of his willingness to stick his neck out and criticize New Deal policies, Willkie was noticed by some Republicans and was talked into allowing his name to be placed in nomination at the 1940 convention. He won out over experienced politicians such as Thomas Dewey but was defeated in the general election by Roosevelt’s superior political gamesmanship and the coalition of special-interest groups he had put together to secure his win in 1936.

All in all, Shlaes must be commended for giving an accurate account of the Depression years that completely refutes the conventional wisdom about that period. I have only a few quibbles with the book.

First, she speaks favorably of the Civilian Conservation Corps, many of whose projects can still be found throughout the country. Sure, CCC workers built some nice things, but the program was just another in the procession of unconstitutional “experiments” that took resources away from the private sector and put them to federal use. The fact that some CCC projects weren’t complete boondoggles should not cause us to praise it.

Second, I wish that Shlaes had spent a little more time on the causes of the 1929 crash and especially the banking panic in 1930. She leads the reader to understand that the failure of the Bank of the United States had a cataclysmic effect on the banking system but doesn’t clearly explain precisely how the bank collapsed and why it had such widespread repercussions. Some discussion of fractional-reserve banking and America’s banking laws that prevented interstate branch banking would have clarified a point that’s a crucial part of the case that government intervention was the real culprit.

Third, the book has no footnotes. Instead, there is a section of “bibliographic notes” at the end. I think that specific references at specific points in the text are more valuable to the reader than just having a few paragraphs that mention each chapter’s sources.

A few minor blemishes such as those don’t detract much from this very significant book. I recommend reading it and then buying copies for friends and relatives who might be won over to the side of liberty if they knew that the Depression was nothing but governmental bungling piled high.

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This article was originally published in January 2008 edition of *Freedom Daily*.