

IN RESTRAINT OF TRADE: THE BUSINESS CAMPAIGN AGAINST COMPETITION, 1918–1938. BY BUTLER SHAFFER. LEWISBERG, PENN.: BUCKNELL UNIVERSITY PRESS, 1997.

Ask a random sample of educated Americans why government regulation of economic affairs has expanded over the past century or so and the modal response will be something along the following lines: in the late nineteenth century, the Robber Barons created Big Business. From that time onward, it became ever clearer that capitalist “excesses” and “abuses” were inherent in an unfettered market economy. Therefore, “the people” demanded that their political representatives impose limitations on and government regulation of the actions of business firms in order to protect the public from those excesses and abuses. Hence the succession of measures that stretch from the Interstate Commerce Act and the Sherman Antitrust Act, in 1887 and 1890, respectively, to the Securities Exchange Act, the National Labor Relations Act, and a host of similar measures created during the 1930s, and on to the multitude of other regulatory laws enacted right up to our own day. One gets an image of raging free enterprisers on the one hand and public-spirited reformers on the other. This understanding, however, is for the most part a myth.

Consider the following statements by prominent actors on the political stage.

The laissez-faire economy which worked admirably in earlier and simpler industrial life must be replaced by a philosophy of planned national economy.

We must put aside individualism; we must put aside unenlightened selfishness and stand together as one in a great irresistible push with stability and prosperity for all as our goal.

The words of starry eyed radicals or ivory tower intellectuals? Hardly. The first quotation belongs to Henry I. Harriman, president of the U.S. Chamber of Commerce, the second to B.B. Gossett, president of the American Cotton Manufacturers Association. Each (quoted by Shaffer, pp. 109, 203) dates from 1933, the very dawn of the New Deal’s effort to—as popular wisdom would have it—“tame” rampaging capitalists.

Butler Shaffer's well-written monograph, *In Restraint of Trade*, describes in extensive detail why and how most businessmen pleaded for the government to tame them between the end of World War I and the eve of World War II. Other scholars have plowed this field before: most notably John T. Flynn (to whose memory and spirit Shaffer dedicates his book), writing from the 1920s to the 1950s; Gabriel Kolko, Robert H. Wiebe, and Murray N. Rothbard, writing in the 1960s; and many others since. Shaffer's contribution is simultaneously to ground his analysis in sound economic theory and to document his historical claims by citing an abundance of primary sources. He goes into special detail in three chapters devoted to particular industries or sectors of the economy—steel (chap. 5), petroleum and coal (chap. 6), and retailing and textiles (chap. 7)—but the entire book is scrupulously documented.

The problem businessmen faced, of course, arose from their inability to suppress competition among themselves. When they met, "even for merriment and diversion," their conversations tended to end pretty much as Adam Smith indicated: "in a conspiracy against the public, or in some contrivance to raise prices." But the conspiracies wouldn't hold up: typically sooner rather than later, individual firms broke the price-fixing or supply restraining rules in order to increase their own profit at the expense of their fellow conspirators. Lacking the power to coerce one another into compliance, firms couldn't create effective, durable cartels.

Smith, one may recall, added to his famous observation about the conspiring businessmen the admonition that, although the law should not hinder people of the same trade from meeting, "it ought to do nothing to facilitate such assemblies; much less to render them necessary." But what Smith advised against was precisely what businessmen succeeded in getting the government to do from World War I to the late 1930s. First, "with the trade associations helping to supply the coordination, the WIB [War Industries Board] politicized the bulk of the economic life of this country during World War I" (p. 21). As Bernard Baruch, head of the WIB, observed, "hundreds of trades were organized for the first time into national associations . . . on the suggestion and under the supervision of the Government" (quoted by Shaffer, p. 25). Then, during the 1920s, goaded by Secretary of Commerce Herbert C. Hoover, trade associations lined up businessmen to conform to "codes of ethics," the main objective of which was to rein in "the chiseling minorities" who would not "play the game" (quoted by Shaffer, p. 57). Shaffer devotes an entire chapter to discussing those codes. Again, of course, businessmen found that, lacking coercive power, they could not keep these minorities from chiseling. Also in the 1920s, the Federal Trade

Commission organized a number of “trade practice conferences” that proved yet another futile attempt at suppressing “destructive competition.” With the onset of the depression, “business leaders became more militant in their proposals for stabilizing trade conditions” (p. 98). The Swope Plan, brainchild of General Electric president Gerard Swope, and similar proposals were put forward in the early 1930s, eliciting favorable responses from most businessmen.

By that time, businessmen were ready to sell their souls for relief from the rivalry. According to a May 1933 editorial in *Business Week*, “The American business man at this moment is utterly weary of the ruthless competitive struggle. It has been too much for him: he has survived so far, but he is spent. He is willing, he feels just now, to surrender some part of his freedom of action to achieve a degree of stability” (quoted by Shaffer, p. 109). Surrender he did, falling into the loving arms of the National Recovery Administration, the federal enforcer of the more than 700 cartels created under the authority of the National Industrial Recovery Act of 1933 (NIRA). So pleased were the nearly spent competitors that one of them judged the NIRA “almost worth the price of the depression” (ibid.). General Hugh Johnson, the Baruch crony tapped to head the scheme, praised it even more lavishly, calling it a “Holy Thing . . . the Greatest Social Advance Since the Days of Jesus Christ” (quoted by Shaffer, p. 106).

Although the NIRA industrial codes differed in various ways, their common denominator was an attempt to restrict market supply, suppress competition, and thereby prop up prices. Although the grand scheme never achieved universal compliance, it did have some effects, one of which surely was to slow the economic recovery that had begun in early 1933. Shaffer takes issue with the oft-stated view that few tears were shed when the Supreme Court invalidated the NIRA in early 1935. In his judgment, “The commonly accepted notion that American business breathed a collective sigh of relief over the demise of the NRA is inaccurate. The business opposition that did develop tended to focus more upon *administrative* difficulties than upon the principle of government enforcement of industry-determined trade standards” (p. 117). In addition to the direct evidence Shaffer presents of political support for continuation of the NIRA, his thesis also receives support from the fact that, in particular sectors or industries, NRA-style arrangements were quickly created after the “Mother of All Cartels” was tossed out. Petroleum, coal, truck transportation, airline passenger transportation, agricultural marketing, food and drugs, retail, and labor services (via the Wagner Act) all provide examples.

In his broad, interpretive discussions, Shaffer sees the growth of government and of mercantilist privileges for business interests as symbiotic. Contrary to conventional wisdom, “government intervention has been invoked *not* at the behest of persons who saw the market failing to function properly, but at the prompting of business interests who were concerned that the market was functioning all too well” (pp. 212–13). Shaffer regards business pressure as the prime mover in the growth of government intervention in the economy. He does not establish that conclusion, however, for he looks only at business actions and does not attempt to compare or contrast them with the actions taken by others who sought enlarged government. Nor does he consider factors—the development of a congenial dominant ideology or the occurrence of a great national emergency, for instance— that might have provided conditions necessary for the success of the business lobbyists. Without a doubt, however, he demonstrates that business interests were in the thick of the push for government intervention.

The book has a dated feel. Only a few items in the long list of references were published after 1990. Although I doubt that anything in the substantial related literature produced by economic historians during the past decade would invalidate Shaffer’s work in any important respect, citation of that literature would have helped to secure his book a place on the short shelf of essential monographs on this topic, a place it well deserves.

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