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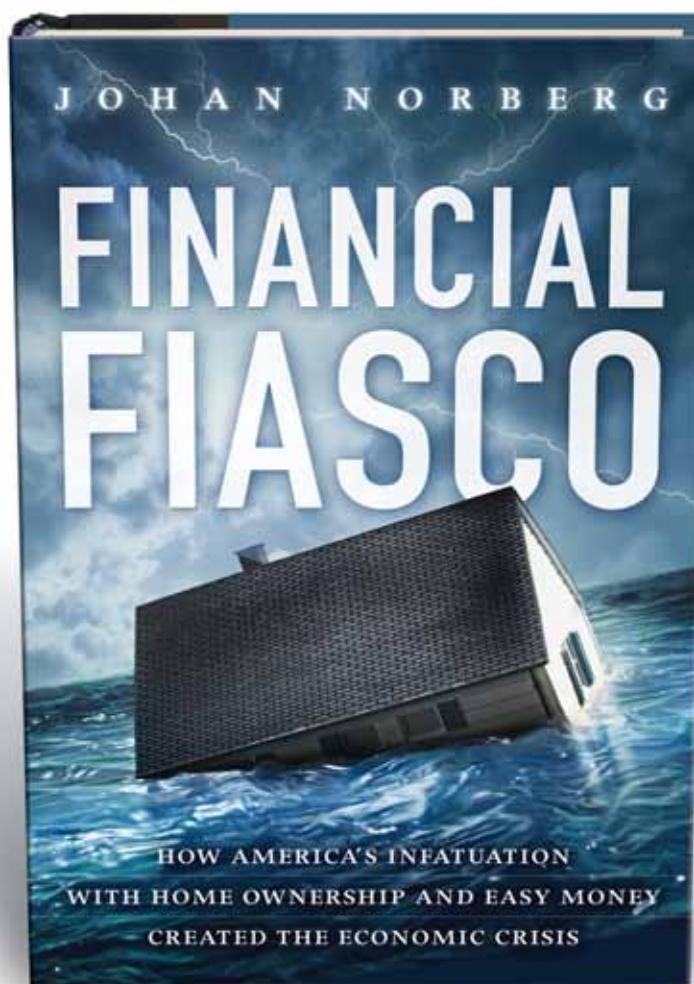
The New Deal Made Them “Right”

BY DAMON W. ROOT

Toward the end of a mostly sympathetic profile of the great journalist and critic H. L. Mencken, Christopher Hitchens once claimed that Mencken’s only “brilliance and verve” occurred during “the period between 1910 and the end of Prohibition.” Which is to say, before Franklin Roosevelt’s New Deal came along. It’s an all too common refrain. Biographer Terry Teachout characterized Mencken as “blinded partly by his hatred of Roosevelt.” Mencken scholar Charles A. Fecher—whom you’d expect to know better—declared Mencken’s opinion of Roosevelt to be “maniacal—there is no other word to use.”

Although it’s true that Mencken ended the 1930s as an enemy of what he called FDR’s “More Abundant Life,” he hardly started out the decade that way. A self-described “lifelong Democrat,” Mencken voted for Roosevelt in 1932 and voiced cautious support for the New Deal’s first stirrings, writing in March 1933, “I have the utmost confidence in his good intentions, and I believe further that he has carried on his dictatorship so far with courage, sense and due restraint.”

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“*Financial Fiasco* . . . is a penetrating and frightening analysis of the causes and consequences of the 2008 Financial Panic . . . This is essential reading for everyone who cares about our economic future, but especially for those who are still not sure what caused the crisis. As Norberg makes clear, private forces jumped willingly on a runaway train, but it was government that built the train and drove it off a cliff. ”

—JEFFREY MIRON, HARVARD UNIVERSITY

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It wasn't until Mencken realized the vast size and intrusive scope of that "dictatorship" that he went on the attack, lambasting the New Deal as a "puerile amalgam of exploded imbecilities, many of them in flat contradiction of the rest." Indeed, in a passage that could be recycled and reused in our own troubled times, Mencken denounced Roosevelt for proposing "to lift the burden of debt by encouraging fools to incur more debt, and to husband the depleted capital of the nation by outlawing what is left of it."

"That the rebel of the twenties should now become a spokesman of the conservatives of the thirties," observed Mencken scholar Malcolm Moos, "came as a shock to many of Mencken's admirers." But was it really so shocking? As America's most famous political journalist for several decades, Mencken routinely championed the individual against the collective, siding with the imprisoned antiwar socialist *Eugene V. Debs*, with the embattled high school science teacher John Scopes, and with the thankless American taxpayer, the sort "who feels that he is being mulcted in an excessive amount for services that, in the main, are useless to him, and that, in substantial part, are downright inimical to him." To put it differently, Mencken didn't turn right, the country lurched wildly to the left.

And he wasn't the only one to feel the shift. By the late 1930s, a handful of prominent liberals suddenly found themselves on the wrong side of the New Deal consensus. Much like Mencken, they joined the "right" almost by default. For the sin of holding fast to certain fundamental beliefs, including the quaint notion that big business and big government should be kept as far apart as possible, they were dubbed heartless reactionaries and "economic royalists." Yet thanks to their principled opposition, some of the New Deal's worst excesses were brought to light or kept at least partially in check.

BRANDED AS A TORY AND A REACTIONARY

Foremost among the members of this new "right" was the muckraking journalist John T. Flynn. Unlike Mencken, whose radical views had always centered on a rugged brand of individualism, Flynn qualified as a

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progressive liberal until the New Deal drove him away. A graduate of Georgetown Law School, Flynn made his name in the 1920s and early 1930s as a left-leaning financial columnist and author whose books bore such titles as *Graft in Business* and *Trusts Gone Wrong!* He enjoyed identifying and exposing the dirty deeds of big business and, as biographer John Moser writes, "in particular he saw abuses in the banking system and the New York Stock Exchange, and as early as February 1929 he was predicting that the value of corporate securities was about to plummet." Flynn's work earned him a prominent perch at the *New Republic*, then as now one of the country's leading left-liberal publications, where he wrote a weekly economics column from 1933 until he was dropped in 1940 for his increasingly harsh attacks on FDR's policies.

But like Mencken, Flynn started out as a Roosevelt supporter, referring to the New Deal as a "promising experiment." It took the National Recovery Administration to cure him of that. The centerpiece of FDR's first 100 days, the NRA represented the nightmare of central planning made real. Enacted as part of the National Industrial Recovery Act of 1933, which FDR hailed as "the most important and far-reaching legislation ever enacted by the American Congress," the NRA sought to micromanage the economy through more than 500 wage-, hour-, and price-fixing "codes of fair competition," mandating everything from the price of food to the cost of having a shirt hemmed. The NRA's stated purpose was to increase efficiency via military-style organization, yet as historian Arthur Ekirch has pointed out: "Little atten-

tion was paid to the fact that it was industry itself that had largely prepared the regulations governing prices and production. Also ignored was the fact that the NRA meant the suspension of antitrust laws along with the whole theory of free competition and free enterprise."

Flynn was among the few who noticed. As a member of the progressive movement, he had long worried about the growing power and influence of the big corporations. Now FDR and his so-called brain trust were climbing into bed with them! As Flynn put it, "Curiously, every American liberal who had fought monopoly, who had demanded the enforcement of the anti-trust laws, who had denied the right of organized business groups, combinations and trade associations to rule our economic life, was branded as a Tory and a reactionary if he continued to believe these things." Thus Flynn found himself on the right.

Using the same muckraking approach that had made him a darling of the left, Flynn denounced the NRA as "probably the gravest attack upon the whole principle of the democratic society in our political history." As for Roosevelt, Flynn argued that although the president proclaimed "his devotion to democracy, he adopted a plan borrowed from the corporative state of Italy and sold it to all the liberals as a great liberal revolutionary triumph."

Nor did these scathing attacks go unnoticed. After reading an article of Flynn's published by the *Yale Review*, FDR wrote privately to the editor, denouncing Flynn as "a destructive rather than a constructive force" who "should be barred hereafter from the columns of any presentable daily paper, monthly magazine, or national quarterly."

THE BANNER OF JEFFERSON, JACKSON, OR CLEVELAND

While Flynn's words certainly stung, the attacks from Democratic hero Al Smith shook the New Deal coalition to its core. A legend among the reform-minded, Smith had long championed leftist causes ranging from minimum wage laws for women to government-built housing for the poor. A child of Manhattan's Lower East Side, Smith rose from Tammany Hall to the state capitol at Albany,

where he served four terms as New York governor. In 1928, he received the Democratic Party's presidential nomination, though he suffered a disastrous electoral defeat at the hands of Republican Herbert Hoover. At the 1932 party convention, Smith lost the nomination to FDR.

So it came as a surprise when Smith began criticizing the New Deal. After all, hadn't he supported the same sort of policies in New York? But like Flynn, Smith saw himself as a constructive critic, not as a partisan foe. As one of the country's most famous opponents of alcohol prohibition, a group popularly known as the "wets," Smith had been deeply troubled by the lessons of the Eighteenth Amendment. Prohibition, he wrote in 1933, "gave functions to the Federal government which that government could not possibly discharge, and the evils which came from the attempts at enforcement were infinitely worse than those which honest reformers attempted to abolish." As biographer Christopher Finan put it, Smith "began to believe that the danger of giving new power to the federal government outweighed any good it might do. . . . He was putting himself on a collision course with the New Deal."

That collision came on January 25, 1936, when Smith delivered a fiery anti-New Deal speech before the Liberty League, a mostly conservative group organized in opposition to Roosevelt's policies. As Smith told the capacity crowd gathered at Washington's Mayflower hotel, "this country was organized on the principles of representative democracy, and you can't mix Socialism or Communism with that." Deriding FDR and his brain trust for their "betrayal" of the Democratic party's principles, Smith declared: "It is all right with me if they want to disguise themselves as Norman Thomas or Karl Marx, or Lenin, or any of the rest of that bunch, but what I won't stand for is to let them march under the banner of Jefferson, Jackson, or Cleveland."

Unfortunately for Smith, most Democrats saw things differently. Joseph Robinson, who had been Smith's running mate on the 1928 presidential ticket, derided Smith for addressing the Liberty League's "billion-dollar audience." He "has turned away from the East Side with those little shops and fish mar-

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kets,” Robinson sneered, “and now his gaze rests fondly upon the gilded towers and palaces of Park Avenue.”

Though Smith continued to enjoy hometown popularity in New York, he was basically excommunicated from the party. In 1936 he crossed the aisle to support Republican presidential candidate Alfred Landon, declaring, “I am an American before I am a Democrat.” Four years later he campaigned on behalf of Republican Wendell Wilkie. FDR trounced them both.

As Smith remarked of his harsh treatment at the hands of one-time friends and allies, “Unless you're ready to subscribe to the New Deal 100 per cent and sign your life name on the dotted line, you're a Tory, you're a prince of privilege, you're a reactionary, you're an economic royalist.” It took his support for FDR during World War II to repair the damage.

THE SWITCH IN TIME

A similar impatience with the New Deal's critics would famously reappear in FDR's war on the Supreme Court, culminating in his failed court-packing bill of 1937, which would have allowed Roosevelt to appoint as many as six new Supreme Court justices. Among other things, that conflict transformed the fiery progressive Sen. Burton K. Wheeler (D-MT) from a longtime friend into a deadly foe.

On February 5, 1937, FDR submitted his plan to reorganize the federal judiciary by allowing the president to appoint one new federal judge to match every sitting judge who had served at least 10 years and hadn't retired or resigned within six months of turning 70. “A lower mental or physical vigor leads

men to avoid an examination of complicated and changed conditions,” FDR argued. “Little by little, new facts become blurred through old glasses fitted, as it were, for the needs of another generation.” In other words, the Court's commitment to such “horse and buggy” notions as property rights and limited constitutional government kept getting in the New Deal's way. Most ominously, in *Schechter Poultry Corp. v. United States* (1935), the Court unanimously struck down FDR's beloved NRA.

So Roosevelt bided his time, waiting until after his sweeping reelection in 1936 to strike against the “nine old men.” As historian William E. Leuchtenburg put it, the court-packing scheme “bore the mark of a sovereign who after suffering many provocations had just received a new confirmation of power.” Senator Wheeler would have agreed with that description, particularly the sovereign part. Wheeler thought the whole thing reeked of unbridled executive power.

And Wheeler, much more than Flynn or Smith, was a true-believing New Dealer with impeccable credentials. In 1924, he served as the running mate of Progressive Party presidential candidate Robert M. La Follette. As chairman of the Senate Interstate Commerce Committee, Wheeler played an indispensable role in the 1935 passage of FDR's bill to regulate utility holding companies. And on a personal note, when the Supreme Court nullified the Agricultural Adjustment Act of 1933 in *United States v. Butler* (1936), Wheeler's son-in-law, an economist at the Agricultural Adjustment Administration, was tossed out of work.

But none of that changed Wheeler's low opinion of FDR's court-packing plan. As Wheeler wrote in a letter to the socialist leader Norman Thomas, “It is an easy step from the control of a subservient Congress and the control of the Supreme Court to a modern democracy of a Hitler or a Mussolini.” Addressing a national radio audience less than two weeks after FDR introduced the plan in Congress, Wheeler moved in for the kill: “Every despot has usurped the power of the legislative and judicial branches in the name of the necessity for haste to promote the general welfare of the masses—and then proceeded to reduce them to servitude. I do not

believe that President Roosevelt has any such thing in mind, but such has been the course of events throughout the world.”

Against Wheeler’s incendiary rhetoric and crafty legislative maneuverings, the court-packing bill failed to garner the necessary votes and died in the Senate by a final tally of 70-20. Wheeler’s “conservative” stand thus helped preserve some degree of judicial independence. (Though FDR did eventually get what he wanted. By the time of his death in 1945, he had “packed” the Court with eight New Deal-friendly justices. And the plan itself is widely credited with influencing swing vote Justice Owen Roberts, whose newfound support was called “the switch in time that saved nine.”) Today’s pro-Roosevelt liberals might take a moment to contemplate what George W. Bush would have done with those court-packing powers.

SUPERFLUOUS MEN

But outside of the court-packing battle, did the fight against the New Deal really matter? As Smith discovered, the voters didn’t seem to have any problem with Roosevelt, and most historians still praise him today for ending the Depression and “saving capitalism.” Is there anything to learn from the principled liberals who stood athwart the New Deal yelling stop?

Albert Jay Nock thought there was. An acclaimed journalist, editor, and biographer, Nock remains one of FDR’s most intriguing opponents. Though he’s normally remem-

bered as a founding father of the modern libertarian and conservative movements, Nock actually championed a unique brand of Jeffersonian anti-statism that has never fit comfortably on the political right. An advocate of free trade and minimal government, he also opposed the private ownership of land, taking his cue from Henry George’s 1879 best-seller *Progress and Poverty*, which argued that the government should be funded exclusively via a “single tax” on collectively owned land.

Indeed, Nock’s political and economic views owed as much to the progressive historian Charles A. Beard as they did to the libertarian theorist Herbert Spencer. In his best-remembered book, *Our Enemy, The State*, Nock combined Spencer’s emphasis on free trade and social cooperation with Beard’s thesis that the U.S. Constitution represented an “unscrupulous and dishonourable” coup d’etat waged explicitly by “the speculating, industrial-commercial and creditor interests.” As historian Charles Hamilton observed about the *Freeman*, the political magazine Nock edited for its entire 1920–1924 run, readers “couldn’t decide if it was liberal, conservative, Bolshevik, revolutionary, anarchist, or Geor-gist.” Hamilton might as well have been writing about Nock himself.

And although Nock was never a New Deal supporter, he was nonetheless shoved to the right by the Rooseveltian juggernaut. As Brian Doherty observed in his definitive libertarian history, *Radicals for Capitalism*, “Nock had never stopped thinking of himself as a

radical. He found it bitterly ironic that in the post-New Deal era, conservative businessmen became his primary audience.”

As far as Nock was concerned, it was the New Dealers who had forfeited their liberal status. He was the one keeping true liberalism alive so that future generations might bring it back into vogue. “Considering their professions of Liberalism,” Nock wrote in a 1934 introduction to Herbert Spencer’s *The Man Versus the State*, “it would be quite appropriate and by no means inurbane, to ask Mr. Roosevelt and his entourage whether they believe that the citizen has any rights which the State is bound to respect. Would they be willing . . . to subscribe to the fundamental doctrine of the Declaration? One would be unfeignedly surprised if they were.”

Today, a chorus of distinguished economists and legal scholars has joined Nock’s lonely voice of New Deal opposition, suggesting that his efforts to preserve classical liberalism paid off in the end—as did the efforts of Mencken, Flynn, Smith, and Wheeler. Though they didn’t defeat FDR or even inspire a particularly effective opposition movement at the time, their positions have since been rediscovered by generations of libertarians and conservatives seeking to rein in the post-New Deal state. With President Barack Obama now wielding a similar array of sweeping executive powers in the face of a growing economic crisis, their principled examples have become more important than ever. ■



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