

Martin Sklar's *The Corporate Reconstruction of American Capitalism: An Economic Historian's Perspective*

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My assignment is to comment on Martin Sklar's *The Corporate Reconstruction of American Capitalism* [7] from the perspective of an economic historian. This is not an easy task, because Sklar is primarily interested in intellectual trends and policy debates, and does not devote much space or attention to economic developments. In his introductory chapter, however, he does make a number of important observations that economic historians would do well to bear in mind. I will use these points as a springboard both to comment critically on the book and to discuss the kind of economic history that Sklar's insights might inspire us to write.

Sklar argues that we cannot understand the transformation that the American economy underwent at the turn of the last century without analyzing the changes in politics, society, and culture that occurred at the same time. For Sklar, capitalism--or for that matter any productive system--is much more than a set of economic interactions; it encompasses "property and class relations, values, ideas, law--in short, intersecting modes of consciousness" [7, p. 6]. Corporate capitalism as it developed in the United States during the early twentieth century was not simply a technological given; it was, to use Sklar's apt term, "constructed." When "critical components of the extant governmental system of power, including the legal order, fell out of phase with the changing pattern of authority in the property-production system," a new system of power had to be built [7, pp. 14-15]. Sklar's own view is that this process of construction occurred within the context of a general discontent with the workings of unfettered competitive capitalism, and that the key issue to be resolved was the extent of the role of the state in directing or regulating economic activity. The important point that economic historians should bear in mind, however, is that the outcome was not dictated by technological forces. It was the result of a struggle between contending social groups and was as much conditioned by the historical context in which it occurred as it was by technology. Moreover, the outcome of this struggle in turn had implications for the nature of corporate capitalism. The giant firms that emerged at the turn of the century functioned in ways that were themselves shaped by developments in society, culture, and politics.

I have no quarrel with any of these points. Indeed, as I shall argue, I think that they contain important lessons that should be taken to heart by economic historians (including myself), who too often lose sight of wider social processes in their writing. My problem with Sklar's work is that he does not always follow his own admonitions and tends himself to lose sight of wider social processes when he discusses changes in law or in government policy. A good example is Sklar's treatment of the Supreme Court's decisions in antitrust cases. This subject would seem to be a good test of his method, for Sklar begins his discussion by proclaiming that the law "is not some 'reflection' of, or 'superstructure' hovering above, capitalist property and market relations; it is an essential mode of existence and expression of those relations. When those relations are undergoing substantial change, so will the law . . ." [7, p. 89].

According to Sklar, the Supreme Court initially decided restraint of trade cases brought under the Sherman Act in precisely the same way as it had under common law--that is, it distinguished between reasonable and unreasonable restraints of trade, finding illegal only those that prevented "others from entering or remaining in the line of business" [7, p. 98]. In 1897, however, a faction of the Court with very different views gained ascendancy, and in a series of decisions beginning with the *Trans-Missouri* and *Joint Traffic* cases applied the Sherman Act in a literal way so as to find all restraints of trade illegal whether they were reasonable or not. These decisions threw the corporate world into a tizzy, but they stood until 1911, when another faction of the court was able to overturn them. With the *American Tobacco* and *Standard Oil* decisions of that year the Court articulated a new "Rule of Reason," returning in effect to pre-1897 precedents.

This reading of the case law has been vociferously challenged by Peter C. Carstensen in a review of the book that appeared in *Reviews in American History* in 1989 [1]. But even if one accepts Sklar's interpretation of the cases, it is difficult to know what to make of the Court's two major reversals of policy, because Sklar does nothing to set them in context. I am not calling here for any simplistic analysis that would relate the Court's decisions in a one to one fashion to economic developments or to the economic interests of individual justices. At the very least, however, I would have expected Sklar to provide the reader with an analysis of the makeup of the court and how it changed over time. More valuable still, given his perspective, would have been a textual analysis of the opinions of the justices that paid close attention to the language they employed and how it resonated with the dialogue about big business that was occurring simultaneously in the larger culture.

The same tendency to lose sight of the broader context also affects Sklar's discussion of antitrust legislation. His treatment of the subject focuses on the same cast of characters and organizations that have occupied the many historians who have written about Progressive Era reform: Theodore Roosevelt, William Howard Taft, Woodrow Wilson, the National Civic Federation, Jeremiah Jenks, James Garfield, Herbert Knox Smith, Samuel Gompers, and so on. For all intents and purposes, moreover, Sklar's method of analysis is the same as that employed by his predecessors in the field. His narrative, like theirs, tends to be taken up with details of who consulted with

whom about what legislation, and as it proceeds tends to become ever more tightly focused on the activities of a few influential figures and finally on the three Progressive presidents themselves. Please don't get me wrong. There is much of value in Sklar's treatment of these policy debates--his analysis, for example, of the origins and failure of the Hepburn Bill (the bill that would have permitted federal registration of large corporations) is by far the best and most complete in the literature--but the discussion does not live up to the methodological claims of Sklar's opening chapters.

Because Sklar devotes most of his energies and most of his book to legal and political change, it goes almost without saying that he has little to say about how business itself was affected by these developments. But the issue is important to raise. If one were to add another section to this already very long book and explore the way in which changes in the political and legal environment impacted large-scale businesses, what might one say? On the most obvious level, the argument would differ in important respects from the one that Alfred D. Chandler, Jr. makes in *The Visible Hand* [2]. Chandler's model is largely technologically driven, and as a result, he does not devote much attention to developments outside the firm, including the debates over federal antitrust policy. All that the federal government accomplished, according to Chandler, was to insure that industries dominated by large firms would have oligopolistic structures rather than monopolistic ones. But this difference mattered little for how firms functioned. In industries characterized by "economies of speed," that is where costs could be reduced by increasing the flow of production through the plant, the firms that would dominate were those that integrated vertically to insure a ready supply of materials and a market for their finished products, and at the same time, developed a managerial hierarchy capable of coordinating the flow of product efficiently.

I think that if Sklar had written this additional section, he would have come to a very different conclusion, viz. that the policy struggles of the early twentieth century affected not only the number of firms in an industry, but also the way they competed, the way they were structured, and the way they organized their managerial hierarchies. The question is whether there is any evidence to support such a view, and the answer, I would claim, is a resounding yes. Take the Rule of Reason, for example. There is plenty of evidence that it affected the way firms competed with each other. Large firms quickly learned that they could avoid prosecution or at least conviction under the antitrust laws by adopting a live-and-let-live posture towards their existing rivals and concentrating on erecting barriers to future competition. Judge Elbert H. Gary, Chairman of the Board of the United States Steel Company, was an early master of the strategy. Under his direction U.S. Steel provided a pricing umbrella that allowed competitors to earn handsome profits. At the same time, he pursued a policy of restricting access to raw-material resources in order to prevent new firms from entering the industry. The strategy was so successful that, when the government prosecuted the company under the antitrust laws, it was unable to find a single competitor who complained that it had been the victim of anticompétitive activity by the steel company [5, pp. 175-77].

Thanks to new work by Tony Freyer, it is now possible to connect this behavior, and the rule of reason that gave rise to it, with the particular social struggle that occurred in the United States at the turn of the century. Freyer compares developments in Britain with those in the United States and finds that the balance of the contending forces was very different in the two nations. In Britain, the late extension of the suffrage permitted the traditional ruling elite to continue to dominate the political system past the turn of the century. Hence, though Britain too developed a "Rule of Reason" for dealing with anticompetitive behavior, it was one that allowed much more scope for cartel-like behavior, and hence for the survival of small family firms [3,4].

Finally, Sklar's approach suggests that we should be able to go even further and trace the effects of cultural change on large firms' internal operations. Historians have long known that early twentieth-century business leaders such as Judge Gary preached stability and cooperation, rather than unfettered competition. Recent research has suggested that these preachings were more than just public relations, that the values they expressed cut more deeply than scholars had previously supposed. John Landry has found, for example, that in developing executive compensation schemes, large firms typically rejected nineteenth-century models based on competitive principles, and deliberately embraced models that rewarded cooperation over individual achievement. This was a choice surely that has had enormous implications for the performance of our largest enterprises in the twentieth century and for the dynamism of the economy as a whole [6].

In sum, although I fault Sklar for not carrying through on his own insights in the substantive part of his book, I find his theoretical position compelling. The modern corporation in the United States was "constructed" during a particular historical period that was characterized by changing cultural values and tremendous social flux. We would write better economic history if we would keep this context in the forefront of our thinking.

References

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