

Myers's book is a welcome addition to the history of policing, which has largely ignored the role of women. It is an important study of how early policewomen employed gender stereotypes to establish jobs for themselves in a male field and then constructed a gender-specific method of policing. These early gender-based justifications for policewomen eventually came to be seen as limiting job opportunities for women. In her epilogue, Myers relates that Portland women police officers, denied assignment to any department other than the Women's Division, turned to federal and state discrimination laws in the 1970s to end sex-segregated assignments. Lola Greene Baldwin would not have approved. She attributed her successful career to the fact that she was "a woman doing woman's work" (161).

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Ronen Shamir, *Managing Legal Uncertainty: Elite Lawyers in the New Deal*, Durham, N.C.: Duke University Press, 1995. Pp. xii + 252. \$45.00 cloth; \$18.95 paper (ISBN 0-8223-1650-1; 0-8223-1662-5).

Ronen Shamir, a professor of sociology at Tel Aviv University, has written an essay in the sociological theory of the legal profession, illustrated by a historical case study of elite corporate lawyers' responses to the New Deal. Prevailing theory ordinarily casts lawyers as instrumental actors, either as hired guns for their clients, or as strategists on their own behalf, concerned to develop and then control new markets for their services. Shamir agrees that lawyers engage in these "representation" functions and "market control" projects, but convincingly argues that his case study exposes a more complex reality. Corporate lawyers did not just push business clients' interests in the New Deal period, but—both collectively through such organs as the American Bar Association and the Lawyers Committee of the American Liberty League and individually in Congressional testimony and publicity campaigns—also "carried on their own crusade against the New Deal" (169). Nor can the bar's position be explained by its own material interests: its main public critique of the New Deal programs was that they tyrannically and unconstitutionally expanded national power and the bureaucratic state—even though that expansion was fast becoming the same lawyers' most lucrative source of new business.

Shamir argues that professions organize to acquire "symbolic" as well as material capital, which confers prestige and social authority on their work and helps make it valuable to clients. In the case of the elite lawyers, this capital was their connection with the courts through mastery of judicial procedures and the formalist "legal science" of court-made common and constitutional law. The mystique of law's neutrality and autonomy from politics "contributed to the ability of lawyers to distance themselves from particular interests while . . . increasing the efficacy" of their services to clients (170). The New Deal's "dejudicialization of the legal system . . . disturbed the fragile lines that separated law and politics, redirected attention to the instrumental nature of law, and consequently undermined the professional claim of objective and neutral expertise" (171).

The lawyers' multiple interests in advancing their clients' causes, extending professional control, and preserving symbolic capital, however, often came into conflict. The National Industrial Recovery Act (NIRA), with its wholesale delegation of code-making authority to administrators and private parties, offended grievously against the judicial model of the rule of law. Elite corporate lawyers believed the NIRA should be held unconstitutional. But they thought the Supreme Court might sustain the Act anyway, did not want to appear to obstruct recovery from the Depression, and—most important—many of their clients and even the arch-conservative Liberty League supported the Act. Caught in the middle, the lawyers hedged: they pressed for judicial review of the Act, but defended it as a temporary emergency measure, and said as little as possible about its constitutionality (chap. 1). The lawyers rejoiced when the Supreme Court unanimously invalidated the NIRA (just as business support for it was fading), because the decision, like FDR's ill-advised plan to pack the Supreme Court, gave them solid independent grounds for opposing other New Deal measures that their clients disliked, such as the Wagner (National Labor Relations) and Public Utility Holding Company Acts. Lawyers from big firms not only fought these programs in court as advocates, but used organizations like the ABA and the Liberty League to denounce them as public-minded citizens. For once, their ideal and material interests were in sync (chap. 4).

If anything too much so. As Shamir's study ironically demonstrates, this contingent harmony of lawyer and client interests actually undermined rather than reinforced the lawyers' claims to independence. When Congress was considering legislation to eliminate federal court jurisdiction to review state public utility rate orders, lawyers for the utilities and lawyers for the ABA offered almost identical testimony in opposition (46–51). When fifty-eight lawyers of the Liberty League signed a manifesto denouncing the Wagner Act as unconstitutional and incited civil disobedience to Labor Board orders, they were widely perceived as wildly partisan flaks for their clients; simultaneously they seriously jeopardized the organized bar's stance of impartial expertise. The ABA and even the League were forced into a lower-profile, more cautious strategy of response to the New Deal.

The strategy's central thrust was to reassert lawyers' control over the administrative process. The bar divided on how best to do this. Small practitioners wanted to exclude lay competition from administrative practice. Elite lawyers, unthreatened by such competition, refused to support this proposal: they toyed instead with a bill to combine several existing courts into a central administrative court, but this was opposed by still other fractions of the bar, specialists in customs, tax, patent, and claims practice. Eventually the elite bar focused on preserving its "symbolic capital" by imposing judicialized procedures and judicial review on the administrative process (chap. 5). (Strangely, Shamir ends this part of his story in 1936. In 1939, an ABA committee chaired by Roscoe Pound recommended wholesale judicialization of administrative procedure. Congress adopted the ABA proposals in the notorious Walter-Logan Bill. But other segments of the elite bar, notably the New York City lawyers whose clients benefited from the speed and efficiency of informal procedures, resisted Walter-Logan; and President Roosevelt vetoed the bill, citing the New York bar's objections to it. Formalizers and informalizers eventually compromised in the Administrative Procedure Act of 1946.)

Shamir explains the New Dealers' efforts to displace judicial lawmaking with administrative expertise as, in part, a professional strategy or "collective mobility project" of yet another segment of the bar—the academic lawyers who turned to "legal realism" and thence to Washington. The law teachers, marginal to both the university and the profession, with little symbolic stake in maintaining the authority of courts or carrying on doctrinal scholarship subservient to courts, were motivated not only to challenge "formalist" judicial reasoning, but to establish a counter-expertise of their own, of which they could be the masters. This counter-expertise was reform-oriented legislation and administrative planning founded on progressive economics and empirical social science (chap. 6).

This book has many virtues, most notably the sections that lucidly synthesize and refine the sociological theory of the professions; and it adds fresh empirical findings, such as a count of big law firms' involvement in litigating various New Deal measures (low for NIRA, medium for the Securities Acts of 1933 and 1934, and high for NLRA and PUCHA). But it is really less a study of elite lawyers in the New Deal than a well-crafted, fairly advanced, proposal for such a study. Shamir has good summaries of the bar's public positions and some of its internal debates, but says very little about one of his theory's crucial dimensions, the lawyers' "representation functions," the actual work they did for business clients dealing with the federal government. He makes little use of the now abundant secondary work on business-government relations in the 1920s and 1930s, and almost none of archival sources. I suspect that deeper digging would somewhat moderate his argument, since I hazard that by 1935 elite corporate lawyers had less "symbolic capital" tied up in legal formalism and the judicial process than Shamir suggests. After serving in government war economy agencies and on corporatist trade-association boards and NRA code authorities, the lawyers had become skilled in capturing informal administrative procedures for their clients' interests and their own profit. Their prestige and cachet increasingly depended on insider knowledge and contacts and expertise in the complexities of technical regulatory schemes rather than mastery of autonomous appellate doctrine. The ABA and Liberty League lawyers' outcries denouncing the New Deal's unconstitutionality were as often as not pure symbolic theater, throwbacks to doctrinaire laissez-faire positions that both the lawyers and their clients had long since abandoned. (The Liberty League itself was a front for Du Pont interests who only turned against the informal administrative state when they felt they could no longer control it.) *Managing Legal Uncertainty* is a useful start on a great project that deserves more attention.

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John Henry Schlegel, *American Legal Realism and Empirical Social Science*, Chapel Hill: The University of North Carolina Press, 1995. Pp xii + 418. \$55.00 (ISBN 0-8078-2179-9).

John Henry Schlegel's long-awaited history of American Legal Realism is a book with multiple agendas. First, Schlegel wants to offer a distinctive interpretation of