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THE *NEW* NEW DEAL FRACAS: DID ROOSEVELT'S "ANTICOMPETITIVE" LEGISLATION SLOW THE RECOVERY FROM THE GREAT DEPRESSION?

DIMITRI B. PAPADIMITRIOU and GREG HANNSGEN

Contents

3 **Preface**
Dimitri B. Papadimitriou

4 **The New New Deal Fracas**
Dimitri B. Papadimitriou and Greg Hannsgen

12 **About the Authors**

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Editor: Barbara Ross
Text Editor: Mikhail Horowitz

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Preface

In this new public policy brief, Greg Hannsgen and I look at two key laws enacted during a time that has been on many Americans' minds lately. In the first 100 days of his administration, President Franklin Roosevelt, facing the worst economic crisis of the 20th century, sent several important pieces of legislation to Congress. Among them was the National Industrial Recovery Act (NIRA) of 1933, which Roosevelt called "the most important and far-reaching legislation ever enacted by the American Congress" (quoted in Hawley 1966, 19). On the one hand, the Act called for industry codes that ultimately had the effect of stifling competition in many product markets, through measures that included minimum prices. On the other hand, the path-breaking union rights and labor protections mandated by the law were not well enforced. Labor prospered to a much greater extent after the National Labor Relations Act (NLRA) was enacted in 1935, during Roosevelt's "second 100 days." This law revived many of the labor rights guaranteed in the earlier act—which by then had been declared unconstitutional by the Supreme Court—and was enforced more rigorously.

The issues of that period were again brought to the fore by two recent developments, one cultural and one political. First, in 2007, Amity Shlaes's *The Forgotten Man* became a best seller. This book argues that many New Deal laws, including NIRA and NLRA, "helped to make the Depression Great" (Shlaes 2007, 8). Second, President Obama's election in 2008 stoked hopes for a strong governmental response to the current recession and financial crisis, a response that might be patterned after the New Deal.

These events have in turn sparked a renewed and vigorous public debate among scholars about the economic impact of the New Deal, in particular, NIRA and NLRA. A number of economists have joined this debate, citing research conducted during the past 15 years. This brief focuses on *The Forgotten Man* and a 2004 paper by Harold Cole, now at the University of Pennsylvania, and Lee Ohanian of the University of California, Los Angeles. The article's thesis is that NIRA and NLRA hindered recovery from the Depression after 1933, in part by allowing companies to conspire to reduce output and raise prices. Also, Cole and Ohanian argue that NIRA and NLRA reduced employment by raising wages.

This brief points out some facts that cast into doubt the way Cole and Ohanian measure the effects of the two laws. First, cartels, monopolies, and industries controlled by a few powerful firms were common long before the New Deal, and many of these would have survived throughout the 1930s even without NIRA. Second, industry generally flouted NIRA's labor provisions, using time-honored but illegal methods to quash union activities. The wage and hours codes were usually drafted by boards with no labor representation. NLRA was a far more effective piece of legislation, but coming as late as it did, that bill probably had only a minor effect on overall macroeconomic performance during the 1930s. Moreover, economists have found evidence that good unions can accomplish more than raising their members' wages, to the benefit of the wider economy.

The thrust of our analysis is that NIRA and NLRA did not prolong or worsen the Great Depression. Fiscal policy and jobs programs had a much greater impact on economic growth in the 1930s, as Keynesian economics has long taught. This impact was positive and significant. Of course, unemployment remained high, if only because the federal government did not hire everyone willing and able to work. For all practical purposes, that did not happen until after the war effort began. Hence, it is the public works and relief programs of the New Deal that offer the most relevant lessons for legislative efforts to end the current recession and probable employment slump, though we agree with Cole and Ohanian that vigorous antitrust enforcement is beneficial to consumers and the economy.

As always, I welcome your comments.

Dimitri B. Papadimitriou, *President*
August 2009

The New New Deal Fracas

Introduction

As recently as 1980, Michael M. Weinstein stated that "Most of those who have considered the macroeconomic impacts of the [National Industrial Recovery Act (NIRA) of 1933] codes have either dismissed their importance or considered them to have been weakly salutary" (Weinstein, 267). NIRA called for industry codes that would ban child labor, end some forms of unfair business competition, limit the length of the workweek, make it easier for unions to organize workplaces, and regulate wages and prices. NIRA was followed by the National Labor Relations Act (NLRA) of 1935, otherwise known as the Wagner Act, which put the right to organize on a firmer footing. But in the 25 years following World War II, when various types of Keynesian economics held sway, most economists and policymakers believed that these laws, when compared to fiscal and monetary policies, had little to do with the speed of the recovery from the Depression.

This view is now being challenged by a wave of revisionist work claiming to show that NIRA and NLRA slowed the recovery from the Depression in the period from 1933 to 1939. Amity Shlaes, in her controversial work *The Forgotten Man* (2007, 8), writes that rules written under NIRA "were so stringent they perversely hurt businesses. They frightened away capital, and they discouraged employers from hiring workers." Also, Shlaes blames continuing high unemployment in the mid and late 1930s partly on strikes that were made possible by NLRA (9). After citing a number of other supposedly harmful programs, Shlaes concludes that "government intervention helped to make the Depression Great" (9), a claim that she repeated in *Time* and *Forbes* earlier this year (2009a, 2009b).

Economists have also weighed in with academic articles on the deleterious effects of anticompetitive New Deal legislation on the speed of the recovery (Cole and Ohanian 1999; Prescott 1999; Bordo, Erceg, and Evans 2000; Chari, Kehoe, and McGrattan 2002; Cole and Ohanian 2004). One of these economists, Lee Ohanian, has argued, again in *Forbes,* that "the Depression lasted far longer than it should have," and that "government policies that restricted competition" such as NIRA and NLRA appear to be the "main culprit" (Ohanian 2009c, 1; Ohanian 2009a). Eric Rauchway (2008b) and Benjamin Friedman (2007) have argued in defense of NIRA, NLRA, and the rest of the New Deal in articles in the *American Prospect* and the *New York Review of Books.*

Many of these arguments have recently echoed in hearings held by the Economic Policy Subcommittee of the U.S. Senate Committee on Banking, Housing, and Urban Affairs (Romer 2009; Galbraith 2009; DeLong 2009b; Winkler 2009; Ohanian 2009b). In March, NIRA and NLRA came under fire at a symposium on the Depression and the New Deal at the Council on Foreign Relations in New York City (CFR 2009). Even at a Hyde Park museum exhibit in honor of the 75th anniversary of the "first 100 days" of Roosevelt's presidency, the revisionists' theories about NIRA were mentioned.

These debates have continuing political relevance. It is likely that the recession (or at least an extremely weak job market) will wear on for some time, and many in Washington are pondering a second stimulus bill. No one is proposing legislation similar to the parts of NIRA that enabled industries to form cartels, but the Employee Free Choice Act, an important prolabor bill in the spirit of both NLRA and section 7(a) of NIRA, is being drafted. As a result of the new New Deal fracas, lawmakers and others will have the New Deal revisionists' theories at the backs of their minds as they consider these proposals and others to help bring about recovery and lasting reform. The objective here is to counter Shlaes's and Cole and Ohanian's claim that NIRA and NLRA were an important drag on economic performance from 1933 until 1939. A vindication of these laws—even one that acknowledges deep flaws—would help buttress the reputation of government intervention in the economy at a time when lawmakers should be turning to the New Deal as a model for a new economy. If Roosevelt is absolved of blame for the severity of the Depression and given proper credit for his accomplishments, some lawmakers will be deprived of a dubious excuse for inaction.

The Purpose of NIRA

When he sent the recovery bill to Congress, Roosevelt stated its goals: "to obtain wide re-employment, to shorten the workweek, to pay a decent wage for the shorter week, and to prevent unfair competition and disastrous overproduction" (quoted in Roos 1971, 41). The bill included some public works projects, but critics have focused on Title I, which provided for the drafting of industrial codes. The president was authorized to "approve codes drawn up by trade or industrial groups providing that he found such codes to be equitable, truly representative, and not designed to promote monopolies or monopolistic practices. He might also make any necessary additions or deletions; and in an industry

where no agreement could be reached, he might impose a code" (Hawley 1966, 31–32). Hawley explains that the bill

> said little about the type of provisions that should be included in the codes. The only specific instructions, in fact, were those dealing with labor standards. Each code, according to section 7, had to contain an acceptable provision for maximum hours, minimum wages, and desirable working conditions. In addition, it had to include a prescribed section 7a, which outlawed yellow dog contracts [which forbid workers who sign them from joining unions] and guaranteed the right of laborers to organize and bargain collectively though representatives of their own choosing. Aside from these labor clauses, the only other guide was the declaration of policy contained in Section 1, a declaration that was couched in terms of broad, general goals rather than specific instructions. The act, it stated, was designed to promote cooperative action, eliminate unfair practices, increase purchasing power, expand production, reduce unemployment, and conserve natural resources; but there was little to indicate the type of code provisions that might be used to achieve these laudable objectives. (32)

The critics of NIRA have found fault with the law because it had the effect of allowing firms to work together to set prices, which, according to economic theory, would result in lower output. This belief might seem unjustified in light of the fact that the law prohibited codes that allowed collusion, but another clause exempted the new codes from the antitrust laws, one of numerous contradictory parts (Bellush 1975, 29). Many historians and economists believe that in practice the bill increased the monopoly power of large firms. The New Deal critics also fault NIRA's minimum wage and collective bargaining provisions, on the grounds that they increased wages above competitive levels, reducing employment.

A look at the economic thought of the time may explain what led politicians, in the midst of the Depression, to support measures that most economists now regard as antigrowth. First, at the time, many economists and others believed that the Depression's root cause was overproduction (Wolfskill 1969, 62–63; Weinstein 1980, 3). As the quote at the beginning of this section suggests, Roosevelt was also concerned about overproduction at the time the bill was sent to Congress. As many policymakers of the time saw it, the modern economy produced more goods than consumers were able to purchase, leading to "cutthroat competition." As a result, prices were falling, and firms were drastically cutting wages and payrolls in an effort to stay in business. The new codes would deal with this situation by preventing sales at below cost, and other unfair trade practices (Wolfskill 1969, 62–63; Weinstein 1980, 3). Some businessmen and trade associations foresaw an opportunity to set explicit limits on output. Also, the bill would shorten the workweek so as to spread work hours among more workers and boost the purchasing power of workers by raising wages. While NIRA was designed to speed recovery (as its title suggests), the portion of the bill calling for industrial codes was not envisioned by supporters mainly as a stimulus to economic growth. Moreover, the bill, like many other parts of the New Deal, was intended to address social issues, such as child labor and exploitative employment, not just to fight the Depression. Surely, these, too, are laudable objectives.

The administration and others also had in mind the idea that the U.S. economy had reached a "mature" phase in which significant, sustained growth was no longer possible, and other policy objectives became more relevant (Wolfskill 1969, 62–63). This view led Roosevelt in 1932 to describe the role of government in a depressed economy much differently than modern economists:

> Clearly, all this calls for a re-appraisal of values. A mere builder of more industrial plants, a creator of more railroad systems, an organizer of more corporations, is as likely to be a danger as a help.... Our task is not discovery, or exploitation of natural resources, or necessarily producing more goods. It is the soberer, less dramatic business of administering resources and plants already in hand, of seeking to reestablish foreign markets for our surplus production, of meeting the problem of under consumption, of adjusting production to consumption, of distributing wealth and products more equitably, of adapting existing economic organizations to the service of the people. (Roosevelt, quoted in Kennedy 1999, 373)

Were NIRA and NLRA to Blame?

The economists who regard NIRA and NLRA as significant hindrances to recovery have a much different view of the performance of an unfettered capitalist economy. Edward Prescott, for example, has very optimistic beliefs about what happens when an economy is not burdened by laws such as NIRA:

> The capitalistic economy is stable, and absent some change in technology or the rules of the economic game, the economy converges to a constant growth path with the standard of living doubling every 40 years. (Prescott 1999, 28)

The economists who have recently attempted to calculate the effects of NIRA and NLRA use models that predict this kind of consistent and rapid growth for an unregulated economy. NIRA and other government programs, they say, constitute changes in the rules of the economic game and are one reason why the economy's performance fell short of their usual model's predictions during the recovery from the Depression (Prescott 1999, 28).

The academic articles cited in the introduction argue that NIRA and/or NLRA impeded economic recovery in a number of different ways. This public policy brief focuses on the *cartelization* hypothesis, which is considered in academic work by Harold Cole and Lee Ohanian (2004, 2009) and popularized in congressional testimony and magazine articles by Ohanian (2009a, 2009b, 2009c). The term cartelization arises because economists often think of the industry groups and unions formed under NIRA and NLRA as cartels. (Some of the arguments below would apply with equal force to other critiques of NIRA and NLRA.)

Cole and Ohanian begin by describing what they regard as a subpar recovery after the economic collapse of 1929–33 (2004, 779–81). Despite some favorable "shocks" to the money supply, productivity, and the banking system, real GDP per adult was still 27 percent below trend in 1939. The total number of hours clocked by U.S. workers was also well below trend as late as 1939. Using a standard macroeconomic model, Cole and Ohanian find that in the absence of some interference with the "competitive" economic system, output and employment would have returned to trend by the late 1930s.

Some economists have taken exception to the claim that the economy performed poorly following 1933. Friedman (2007) has called into question Shlaes's statements to this effect. Christina Romer notes, "Between 1933 and 1937 real GNP in the United States grew at an average rate of over 8 percent per year; between 1938 and 1941 it grew over 10 percent per year. These rates of growth are spectacular, even for an economy pulling out of a severe depression" (1992, 757).

Cole and Ohanian do not agree, even leaving aside the severe recession of 1937–38. Their paper is devoted to seeing whether a model with cartels can account for the gap between actual growth and employment and the predictions of their competitive model. The model is intended to capture certain key effects of NIRA and NLRA: a suspension of the antitrust laws that permitted collusion in many industries (essentially cooperation among firms aimed at maintaining high prices); and provisions that promoted collective bargaining, which allegedly caused unemployment by raising wages in some industries above competitive levels. Cole and Ohanian find that "cartelization policies" account for about 60 percent of the gap between actual and potential GDP (2004, 781).

Models similar to Cole and Ohanian's are now the norm in mainstream academic macroeconomics, and they have shortcomings that cannot be addressed here. Lately, they have been faulted by some economists for their apparent failure to forecast and avert the current crisis (Buiter 2009; De Grauwe 2009). One defect of this particular model is a lack of involuntary unemployment. The "unemployed" workers in the model are merely searching for jobs that pay more than positions in the competitive sector, which are readily available—a scenario not corroborated by contemporary observers (Terkel 1970). This public policy brief will not delve into the mathematics of the model, which cannot be adequately addressed in a short publication intended for a wide readership. Instead, the brief focuses on the present-day implications of the cartelization hypothesis, the applicability of Cole and Ohanian's model to the Depression era, and some aspects of the New Deal neglected by the critics. In other words, the brief challenges a key historical claim of the revisionists, one that is not necessarily tied to any particular modeling methodology.

What Did NIRA and NLRA Do?

The cartelization hypothesis, as advanced by Cole and Ohanian, depends on the claim that in the absence of NIRA and NLRA, perfect competition would have prevailed in all markets, while instead, these laws strengthened the monopoly power of firms and resulted in an increase in the number of workers represented by unions. Also, the article relies on the theory that these effects could be expected to reduce economic growth. This section addresses how well the critics' story fits the political and institutional facts of the period following the passage of NIRA. First, it discusses the product-market aspects of NIRA, and then it deals with the putative labor-market effects of NIRA and NLRA. Readers may be surprised at the somewhat unflattering picture of NIRA painted below, but acknowledging certain flaws in the law and its execution will help show that it probably did not have the

negative effects described by its critics, nor did it hog-tie business as Shlaes implies (2007, 151).

Many historians believe that NIRA indeed allowed "the large corporations which dominated the code authorities [to use] their powers to stifle competition, cut back production, and reap profits from price-raising rather than business expansion" (Leuchtenberg 1963, 69). Cole and Ohanian measure the effects of NIRA versus a baseline model with perfect competition. It is of course impossible to ascertain the counterfactual of whether industry would have been perfectly competitive in the relevant period if Roosevelt's legislation had not been signed into law. However, one way of making some inferences about what would have happened is to compare the 1930s with the 1920s. If monopoly power was already widespread in the 1920s, it would be unlikely that perfect competition would have existed in 1933–39 in the event that NIRA and NLRA had not been passed.

Indeed, some empirical studies at least raise the possibility that there was no significant decrease in competition in the 1930s, compared to 1900–1930 (Stigler 1950, 46–59; Cox 1981, 181). As an example, in 1927, five years before Roosevelt's election, the U.S. Steel Corporation produced over 53 percent of the total U.S. output of steel rails. Its mines and factories accounted for more than 36 percent of the output of nine other major steel-related products (Chandler 1990, 138). Throughout the 1920s, large businesses, with the cooperation and help of the federal government, were forming "trade associations," which had the effect of diminishing competition. There was

> a rapid burgeoning of trade associations, a rationale that justified their anticompetitive activities, and a public policy under which such agencies as the Department of Commerce and the Federal Trade Commission helped these associations to standardize their products, expand their functions, and formulate codes of proper practices, codes that generally regarded a price cutter as a "chiseler" and price competition as immoral. (Hawley 1966, 10; see also Himmelberg 1976)

With the onset of the Depression, cooperation among firms began to break down amid pressure to cut prices. Also, antitrust officials began to challenge many of the codes (Hawley 1966, 39). Business looked to the government to help shore up their system of collusion. The new NIRA codes were mostly initiated by existing trade associations and were "largely a direct offshoot of the trade-association system" (Bellush 1975, 44; see also, Himmelberg 1976). Hence, NIRA cannot be seen as a government imposition of cartels on a purely competitive system. This fact alone does not prejudice Cole and Ohanian's analysis of how the codes affected the economy, but it does mean that it is wrong to blame the codes and their anticompetitive impact solely on the New Deal.

In addition to the industrial cartels, Cole and Ohanian's model includes bargaining between industry and unions. This aspect of the model is meant to represent the effects of NLRA and section 7(a) of NIRA, both of which sought to establish American workers' rights to join unions and bargain collectively. In essence, the paper uses the idea that unions act as "monopolies" for workers, raising wages and causing unemployment. They find that labor's newfound bargaining power accounts for a large portion of the negative effect of New Deal anticompetitive legislation on GDP. One example is a scenario in which output in the "cartel model" is 94 percent of output in a hypothetical competitive economy, but this figure would rise to 97 percent if labor's negotiating power were reduced to zero (Cole and Ohanian 2004, 805). Along similar lines, historian Shlaes argues that excessive wages and strikes brought on by New Deal legislation increased unemployment (2007, 9).

However, while the New Deal collective-bargaining laws were a crucial step forward for the union movement in the United States, their immediate effect was rather weak, largely because the National Recovery Administration (NRA, the agency charged with implementing the codes) had a probusiness bias (Hawley 1966 ; Bellush 1975; Biles 1994, 83–102; Leuchtenberg 1963, 69–70). Less than 10 percent of the authorities that administered and enforced the codes had some labor representation (Bellush 1975, 47). Paul Conkin reports, "Many corporations evaded the labor codes (bargaining rights, wage-hour protection, prevention of child labor) required by section 7(a) of NIRA, either by establishing company unions or by deliberate refusals to recognize legitimate unions" (Conkin 1975, 33). Bellush's account of the effects of section 7(a) shows that business still had the upper hand in the fight with organized labor (1975, 85–135). Labor rights fell far short of the rules set forth in section 7(a), which mandated that workers have the right to organize and bargain collectively, "free from the interference, restraint, or coercion of employers of labor" (Weinstein 1980, 19).

Things did change somewhat in 1935 after the passage of NLRA and the Supreme Court's ruling that NIRA was unconstitutional. Cole and Ohanian state that "union membership rose from about 13 percent of employment in 1935 to about 29 percent

of employment in 1939" (2004, 785). Labor won some crucial organizing victories soon after NLRA was signed into law in 1935 (Leuchtenberg 1963, 239–242). Conkin points out that the new labor rights act proved far more effective than NIRA in providing protection for unions (1975, 62). Hence, Cole and Ohanian's assumption that union negotiating power was elevated by the New Deal is more plausible for the period from July 1935 to 1939 than for 1933 to July 1935. Nevertheless, even after 1935, the union movement advanced gradually and with strong opposition. As Brad DeLong puts it, "NLRA came too late to be blamed for the Great Depression. The most you can do is blame it for the 1937–38 recession" (2009a, 17). The latter claim probably founders on the much more logical explanation that fiscal policy tightened sharply before that recession, a proposition that we intend to flesh out in a future publication.

Cole and Ohanian clearly do not pretend to engage in a thorough evaluation of the social costs and benefits of unions. Instead, they focus on the "monopoly" function of unions during the 1930s. However, economists have studied many other effects of unions, ranging from increased productivity in some firms to industrial democracy to improved working conditions for many nonunion workers (Freeman and Medoff 1984, 5). Even some chairmen of large corporations have seen the union tactics that disrupted the economy during the New Deal as part of a beneficial movement, as evidenced by a quote from Thomas Murphy of General Motors:

> The UAW may have introduced the sit-down strike to America, but in its relationship with GM management it has also helped introduce…mutually beneficial cooperation…. What comes to my mind is the progress we have made, by working together, in such directions as providing greater safety and health protection, in decreasing alcoholism and drug addiction, in improving the quality of work life. (Quoted in Freeman and Medoff 1984, 4)

In light of the many radical movements on the ascendancy during the Depression, corporate leaders may have known that widespread unionization also helped save capitalism. To the extent that NLRA helped the unions organize more workplaces, it produced benefits not just for union members but for American business and society. There were certainly costs, too, but these probably did not include increased unemployment: DeLong points out that unemployment was low in the 1950s, despite the fact that unions were even stronger in that decade than in the 1930s (2009a, 17). In fact, an argument can be made that unions help create jobs in nonunionized industries by enlarging the working-class market. These facts put into context Shlaes's statement that Roosevelt "systematized interest-group politics…, ministered to those groups [including "labor" and "unionized workers"], and was rewarded with votes" (2007, 11). More than Shlaes acknowledges, Roosevelt and Robert Wagner, the Senate sponsor of NLRA, had the whole country's best interests at heart in their efforts to pass the bill.

In sum, Cole and Ohanian base their assertions on results from a careful and precise modeling exercise that says little about the overall economic effects of NIRA and NLRA. Monopoly power may have hurt consumers in the 1930s by raising prices and reducing output, but NIRA cannot be blamed entirely for cartels and monopolies that dated to the 1920s and earlier. NLRA and section 7(a) of NIRA were major steps in the rise of the union movement, but these laws probably had not made unions strong enough in the early and mid 1930s to have much effect on economic growth. Even if labor's bargaining power was somewhat increased, it is important to avoid the impression that Democratic "interest groups" such as labor were running rampant in an economically counterproductive manner. Moreover, while the "insider-outsider" labor-market models of the type employed by Cole and Ohanian are certainly not intrinsically worthless, such models cannot possibly offer a comprehensive assessment of the costs and benefits of the prolabor legislation of the New Deal. One would be needed to justify a conclusion that NLRA and section 7(a) of NIRA reduced economic growth, let alone that they were bad legislation.

What Is Left Out of the Cole and Ohanian Model?

Cole and Ohanian have included in their model one of the most flawed, least effective, and weakly enforced pieces of New Deal legislation, NIRA. The discussion above indicates that the codes required by this law were not intended primarily to boost economic growth. It seems fair to ask what would happen if Cole and Ohanian's model were modified to take into account all of the major New Deal laws, or at least those thought of by liberal economists as progrowth. It would be well-nigh impossible to build such a model, but there are many reasons to think it would show that the New Deal greatly improved growth in the 1930s and even later.

The authors of this brief intend to follow up with a publication on the impact of the fiscal and job-creation policies introduced by Roosevelt. Many historians and others have written about what the New Deal accomplished (e.g., see Kennedy 1999, 363–380; Rauchway 2008a). In the South, agricultural programs provided money for the mechanization of agriculture, perhaps helping to bring an end to the exploitative and inefficient sharecropping system (Biles 1994, 56–57). New Deal public works programs yielded not only paychecks but also national parks, roads, bridges, and post offices—investments that no doubt yielded large economic dividends (Leighninger 2007). Federal deposit insurance all but eliminated old-fashioned bank runs, helping financial institutions to perform more reliably their economically important functions. Social Security remains perhaps the most popular federal program, helping many seniors avoid poverty. The economic effects of the New Deal were vast and far-reaching. A demonstration that NIRA and NLRA inhibited economic recovery does not amount to an argument that the New Deal slowed recovery or failed to increase output over the long run (Rauchway 2008b, 2).

Some Other "Forgotten Men"?

The title of Shlaes's book is *The Forgotten Man.* This phrase is remembered in connection with the New Deal because of a speech in which Roosevelt appealed to his audience on behalf of "the forgotten man at the bottom of the economic pyramid" (quoted in Shlaes 2007, 12). Shlaes sees her book in part as the story of many other forgotten men. She traces the phrase back to William Graham Sumner, a social scientist born in 1840, who "warned that well-intentioned social progressives often coerced unwitting average citizens into funding dubious social projects" (12). Shlaes goes on to cite numerous examples of men apparently forgotten in the New Deal era, ranging from "the fellow that is trying to get along without public relief" to Andrew Mellon, the wealthy banker who was Treasury Secretary under three Republican administrations (13).

Since this public policy brief focuses on NIRA and NLRA, it seems appropriate to ask who, if anyone, was forgotten in these acts and their implementation. Shlaes takes up the case of Martin Schechter and his family, the famous butchers who were prosecuted for violating NRA codes and ultimately prevailed in the Supreme Court. More generally, she counts the consumer and small businesses among those who were forgotten by the NRA (Shlaes 2007, 226–27). One scholarly account argues that NIRA's representing "a triumph of big over small business is accurate only in a limited and special sense" (Himmelberg 1976, 221). Nonetheless, there is some merit to the claim that NIRA often helped large corporations at the expense of the consumer and small enterprises.

On the other hand, Shlaes mentions many of the problems experienced by African Americans during Roosevelt's presidency, but she does not point out that they suffered unfair treatment under NIRA. In the drives to organize more workplaces following the passage of NIRA, many unions excluded African American workers, who were "rarely found in the ranks of organized labor during the early years of the New Deal" (Bellush 1975, 76–77). Many African Americans were forced out of skilled jobs when the AFL organized their workplaces (81). Biles reports that "NRA codes exempted from coverage agricultural laborers and domestics, two categories that accounted for approximately three-fourths of southern black workers" (1994, 111–12). Some codes for mainly African American regions and occupations imposed wages that were lower than pre-NIRA levels (Bellush 1975, 75–81). The local compliance boards responsible for enforcing the codes often ignored complaints by African Americans (Bellush 1975, 75–81; Biles 1994, 111).

African American leaders and intellectuals spoke out strongly against NIRA, which proved to be a setback in Roosevelt's ultimately successful effort to bring African American voters into the Democratic party (Leuchtenberg 1963, 185–187). Once Roosevelt declared before a Howard University audience in 1936 that there would be "no forgotten men and no forgotten races" (quoted in Shlaes 2007, 282), many officials, departments, and other programs in the federal government contributed to a liberal presidential record on race by the standards of the day (though NLRA, enacted in 1935, replicated some of the inequities in NIRA). To mention racial disparities in NRA codes is not to criticize *The Forgotten Man,* but it helps round out Shlaes's reckoning of the impact of early New Deal legislation, not to mention our very favorable view of Roosevelt's "first 100 days." Of course, African Americans were only one of a number of groups treated unfairly by certain New Deal programs and regulations. Moreover, these governmental initiatives were born of conflicts between different factions in Congress and within Roosevelt's administration, in a perilous era when social attitudes were different from those of today.

Conclusion

Cole and Ohanian, in a recent article in the *Milken Institute Review,* conclude "that the primary test for judging the value of [government] intervention should remain a familiar one: would the change preserve (or improve) market-based incentives to work, save, invest, and innovate? By this measure, the New Deal plainly came up short" (2009, 25). This brief suggests that any adverse effects of NIRA and NLRA on incentives were probably so inconsequential as to be easily overshadowed by the obvious benefits of legislative accomplishments such as Social Security and federal deposit insurance. NIRA, and to a lesser extent NLRA, admittedly had many flaws, but these blemishes should not obscure the fact that the New Deal helped the country through a desperate time and lay the basis for a quarter century of relative prosperity following World War II. Business interests who oppose a new New Deal would do well to remember that it was not only labor that prospered: the inflation-adjusted, after-tax profits of corporations rose 377 percent from 1935 to 1970.[1]

Like Roosevelt's "first New Deal," President Obama's early legislative achievements will not suffice to bring lasting prosperity, especially to those who struggled to make ends meet even before the current recession. As was true for Roosevelt, Obama's work has been made more challenging by the opposition of probusiness lobbies, which may have to be accommodated to a great extent once again. He still has a chance to stiffen financial regulation, reform the health care system, safeguard labor rights, and alleviate the effects of the recession, among other goals. The New Deal can provide some of the inspiration needed for these efforts. We hope that this brief helps to open the way for a realistic economic agenda, which will inevitably involve a new role for government.

Note

1. Computed from the implicit price deflator (Bureau of the Census 1975, 197) and total profits after tax (236).

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About the Authors

DIMITRI B. PAPADIMITRIOU'S areas of research include financial structure reform, fiscal and monetary policy, community development banking, employment policy, and the distribution of income, wealth, and well-being. He heads the Levy Institute's Macro-Modeling Team, studying and simulating the U.S. and world economies. In addition, he has authored and coauthored studies relating to Federal Reserve policy, fiscal policy, employment growth, and Social Security reform. Papadimitriou is president of the Levy Institute and executive vice president and Jerome Levy Professor of Economics at Bard College. He has testified on a number of occasions in committee hearings of the U.S. Senate and House of Representatives, was vice chairman of the Trade Deficit Review Commission of the U.S. Congress (2000–01), and is a former member of the Competitiveness Policy Council's Subcouncil on Capital Allocation. He was a Distinguished Scholar at the Shanghai Academy of Social Sciences in fall 2002. Papadimitriou has edited and contributed to 10 books published by Palgrave Macmillan, Edward Elgar, and McGraw-Hill, and is a member of the editorial boards of *Challenge* and the *Bulletin of Political Economy*. He is a graduate of Columbia University and received a Ph.D. in economics from the New School for Social Research.

Research Scholar GREG HANNSGEN is a member of the Levy Institute Macro-Modeling Team, which is responsible for the Institute's *Strategic Analysis* series. In addition to his work for the team, Hannsgen has conducted research on such topics as a Minskyan theory of the determinants of private-sector spending, the neglected social dimension of some consumer decisions, and fallacies in the methods used by neoclassical economists to measure the social costs and benefits of macroeconomic policies. He has written about his research in the *Journal of Post Keynesian Economics*, *Journal of Socio-Economics*, and *Review of Political Economy*, and in several edited volumes. He is a coauthor of an article in the *Social Security Bulletin*. Previously, Hannsgen was a research associate and editor at the Institute, handling the *Report,* the *Strategic Analysis* series, and numerous policy notes and public policy briefs, mostly on macroeconomics and finance. He joined the Institute in 2002 after earning a Ph.D. in economics at the University of Notre Dame. He also holds a B.A. in economics from Swarthmore College and M.A. degrees from Notre Dame and the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota, Twin Cities.