knew exactly what Lincoln was saying about the American nation.

Fighting Foreclosure: The *Blaisdell* Case, the Contract Clause, and the Great Depression. By John A. Fliter and Derek S. Hoff. Lawrence, KS: University Press of Kansas, 2012. 224p. $34.95 cloth. $19.95 paper.
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— J. Kevin Corder, *Western Michigan University*

Fighting Foreclosure revisits a 1933 Supreme Court decision that opened the door for state governments to provide relief to debtors during periods of recession or financial crisis. The work addresses a serious and contemporary question: Under what extraordinary circumstances can a government alter the terms of an existing and wholly private contract—a mortgage—to serve a broader public interest? The question introduces a range of legal issues that the Court confronted as the Depression unfolded in the 1930s: What constitutes an emergency? How are basic rights of creditors preserved? Is state intervention temporary? Is there a public interest to be served?

John Fliter and Derek Hoff offer a thorough treatment of the history and impact of *Home Building and Loan Association v. Blaisdell,* a case that was widely seen—at the time—as a landmark repudiation of the Contract Clause and an almost radical expansion of state power. The contemporary status of *Blaisdell,* rarely mentioned as a landmark today, is ironic on two counts. First, a later 1937 case, *West Coast Hotel Co v. Parish,* is typically identified as the turning point in judicial scrutiny of Depression-era state and federal legislation. Second, the policy options that *Blaisdell* permits—such as suspending foreclosures by extending the redemption period—are no longer palatable or even tempting for state governments. Fliter and Hoff offer some insights into both of these puzzles: how *Blaisdell* was largely overlooked after "the switch in time that saved nine" four years later and why elected officials did not choose *Blaisdell*-inspired remedies during the 2008–10 foreclosure crisis.

The authors offer a brief, clear account of the emergence of the Contract Clause as a critical piece of the Constitution. Debtor relief laws popular during the Confederation Period specifically motivated the framers to adopt vigorous language to protect private contracts from state intervention. Early Court decisions strengthened the Clause and, over a series of economic crises in the 19th century, the Court struck down a variety of attempts by states to intervene on behalf of debtors. Fliter and Hoff conclude that "every remedy" proposed in Minnesota in 1933 had "at one point been held unconstitutional by state or federal courts" (p. 36).

The Minnesota Mortgage Moratorium Act represented an important victory for the Farm Holiday Movement. Fliter and Hoff devote a chapter to the organization and principal actors in the movement, a widespread network of farmers who disrupted foreclosure sales, organized farm strikes, and pressured state officials to act to assist farmers and other struggling borrowers. The discussion of agrarian radicalism highlights one feature of the political environment of the 1930s that is clearly different from our contemporary experience: the real threat of political violence. The prospect of disruptive resistance—like the anarchist bombings, labor unrest, and farm strikes experienced in the first two decades of the 20th century—motivated state action during the Depression. The public emergency at the heart of the *Blaisdell* was not simply economic, but the fear that a wave of foreclosures could inspire mayhem or even revolution—in the words of one Blaisdell attorney—a "menacing danger of widespread rioting" (p. 127).

The central claim of the book is that *Blaisdell*—along with *Nebbia,* a 1933 decision that upheld New York State regulation of the dairy market—should both have the status of landmark cases—as "stepping stones" for the later cases that clearly ratified New Deal policies. This claim is not only rooted in the particular features of the case—that the state can impair fulfillment of contracts in an economic emergency—but also in the broader implications of the decision. *Blaisdell* advanced legal realism, the idea that judges and law should be influenced by changing economic, social, and political conditions. The majority opinion, adopting language proposed by Justice Benjamin Cardozo, endorsed this objective, proposing a new and "rational compromise between individual rights and public welfare" (p. 136). After *Blaisdell,* the Contract Clause was no longer the first line of defense for interests opposed to state intervention but largely relegated to a "Constitutional graveyard" (p. 169).

The final chapter of the book directly addresses the anemic, half-hearted state and federal responses to the 2008 mortgage crisis—responses that emphasized aid to lenders and macroeconomic stimulus, rather than aid to borrowers. While a few states considered mortgage moratoriums of the type that proliferated after *Blaisdell,* nothing like the Minnesota Mortgage Moratorium Act emerged after the 2008 crisis. In fact, Minnesota Republican Governor Tim Pawlenty vetoed, to the relief of the financial services community, a bill that would have provided some aid for subprime borrowers.

The case is paradoxical. *Blaisdell* was a landmark, watershed case in 1933, but the discretion that the decision gave states to meet a foreclosure crisis is largely unused today. Certainly, the circumstances of foreclosure do mean something different today—in the 1930s, mortgaged property was not just a home but a livelihood—a loan might be taken against a family farm or a boardinghouse: There was little in the form of a safety net for victims of foreclosure. Nevertheless the sheer scale of the crisis today and the financial and human toll of foreclosures in

2008–10 might have led to more state responses that protected debtors. Fliter and Hoff highlight the differences between advocates of relief then and now. Collective action in response to foreclosure came from a wide network of farmers and workers in 1930s Minnesota; ACORN was the core of the political agitation in 2008. The authors also appeal to broader ideological shifts that have elevated the ethic of personal responsibility over the idea of public interest. In some ways, the authors embrace this perspective—concluding that "many of today's victims created their own problems" (p. 187). This claim, like the broader ideological shift, echoes arguments from Sutherland's dissenting opinion in *Blaisdell* that financial crisis is frequent, predictable, and regular, and that appropriate solutions are to be found in "self denial and painful effort" of borrowers rather than state intervention and relief.

Overall, this is an interesting, timely piece of scholarship. The book (and the broader series*, Landmark Law Cases and American Society*) have a particular niche. If you are looking for formal-theoretic treatment of judicial decision-making or a statistical model of judicial choices, then you will be disappointed by this book. If you are in search of an original and fresh way to introduce politics and law in the Great Depression or to introduce students to broader tensions between individual rights and the public interest and historical controversies over the meaning of the Constitution, this book has a lot to offer.

Shared Responsibility, Shared Risk: Government, Markets, and Social Policy in the Twenty-First Century. Edited by Jacob S. Hacker and Ann O'Leary. New York: Oxford University Press, 2011. 304p. $99.00 cloth, $29.95 paper.
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— Kimberly J. Morgan, *George Washington University*

The Great Recession of 2007–9 called attention to the problem of risk. One trigger of the crisis was risky behavior on the part of financial institutions and, as the crisis spiraled into a major economic downturn, individual workers and families were freshly exposed to some of life's major risks—the loss of work, the disintegration of wealth and retirement savings, the loss of one's home. Yet well before the Great Recession, scholars in different academic fields had been studying economic and social risk and thinking about government policy as a means of shaping, distributing, and cushioning it. This edited volume presents some of the fruits of this line of inquiry, now given renewed urgency because of the economic crisis. With 13 substantive chapters and a conclusion, it aims not only to describe and characterize trends in economic insecurity and risk, but also to offer a menu of concrete policy remedies.

A central theme of the book is the decreasing effectiveness of government policy with regard to the many risks that households face. Part of the problem stems from shifts concerning who bears the risk, from government and firms to individuals and families. This is especially evident in pensions because, as Alicia Munnell describes, the erosion of Social Security replacement rates has been accompanied by a shift in the private pension system from defined benefit to defined contribution plans. With a beneficiary's pension income made contingent on market returns, one's standard of living is yoked to the ups and downs of the stock market—a point driven home by the loss of $2 trillion of wealth in individual retirement and 401(k) plans between October 2007 and March 2009. The decline of employer-sponsored health insurance has also shifted the risk of ill health onto households that are uninsured or underinsured, as Jacob Hacker details in a chapter on health-care reform. Among the consequences are rising numbers of medical bankruptcies and delayed medical care, with potentially serious consequences for health and well-being.

In other instances, the roots of the problem lie more in government inaction in the face of economic and social changes. As several chapters describe, the federal government does little to support families struggling to balance work and family and/or care for sick or aging family members. The demand for such assistance has only grown, with the aging of the population and the greater prevalence of working mothers and single parents. Yet the private sector has not adequately filled the gap either, as evidenced by the failed long-term-care insurance market or the high cost of private child care. Public policy has not adequately dealt with some of the most significant changes in the American economy either, according to several contributing authors, including stagnant earnings for moderate and low-income workers, rising inequality, and income shocks ranging from job loss to the collapse in housing prices.

What distinguishes this volume from others that have highlighted similar trends and policy shortcomings is the unifying focus on risk and how policy choices, or inaction, shape its distribution. This is an important move from both an intellectual and a policy standpoint. Intellectually, it is essential to view the U.S. system of social and economic policy as one that has always relied heavily upon the private sector, as Hacker discusses in the introductory chapter. In lieu of large federal bureaucracies and collective solutions, policymakers have long used an array of policy tools to underpin markets and help individuals to help themselves.

The common thread running through many of these interventions, as the historical overview by David A. Moss shows, has been government action to shape the allocation of risk, including nineteenth-century banking and bankruptcy laws that facilitated a functioning market economy; risk pooling in both public social insurance and private employer benefit schemes during much of the twentieth century; and burgeoning health, environmental, and consumer safety regulations since the 1960s. In