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## Off

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#### Infrastructure funding will pass now

Collinson 10-29-2021, analyst @ CNN (Stephen, “Democrats fight one another in Washington as Americans struggle,” *CNN*, <https://www.cnn.com/2021/10/29/politics/congress-spending-bill-president-joe-biden-italy-g20-democrats/index.html>)

Changing millions of lives

There is no doubt that if it passes, the social spending package, which makes housing, education, health care and home care more affordable, has the potential to change millions of lives. The climate proposals could unleash a new green economy as well as help save the planet. And Biden will probably eventually get his Washington victory lap. His domestic policy chief Susan Rice told CNN's Anderson Cooper Thursday the White House was "very confident" a framework accepted by House progressives would be the basis of the spending bill that would now be able to pass both chambers. The two holdout moderate Democrats, Joe Manchin of West Virginia and Kyrsten Sinema of Arizona, are yet to publicly and unreservedly endorse the framework. The question now, after another missed deadline, is when the situation will change. In the last few days, the spectacle of Democrats ditching multi-billion dollar programs and hurriedly trying to come up with new ways to fund the bill has left an impression of chaos that hardly enhances the reputation of one of the biggest social spending bills in generations. The longer the impasse lingers, the greater the risk that moderate Senate Democrats will get cold feet. Or that progressives will sour on a framework for a deal that cuts out many of their favorite programs, including paid family leave and free community college. Biden's departure for the G20 summit in Italy and the UN climate conference in Scotland was set by Democratic leaders as the latest deadline to pass the infrastructure and spending bills. On Thursday, it also became the latest must-pass date to be missed, reflecting a growing habit for the White House to set deadlines that are not met and frazzle the President's credibility. As a result of the latest miss, Biden showed up in Rome looking like a President who cannot get his own house in order before he meets world leaders to reaffirm US leadership. Biden had particularly wanted climate programs in the spending bill sent to his desk before he left, to pressure other nations to make significant cuts to carbon emissions at the climate summit. Progressives believe that the social spending bill, which offers universal pre-school, home health care for the sick and the elderly and $500 billion in spending to combat climate change, is a once-in-a-generation chance to overhaul the economy to alleviate the burden on working Americans.

#### Antitrust reform trades off with other legislative priorities

Carstensen 21, JD and MA @ Yale, Former Chair of U-W Law School, Senior Fellow of the American Antitrust Institute (Peter, “THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST,” <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en>)

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities. 15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate! 16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### Solves grid collapse – immediate action is key to mitigate growing risks

Pittsburgh Post-Gazette 3-4-2021 (“Invest in Infrastructure,” <https://www.post-gazette.com/opinion/editorials/2021/03/05/Invest-in-infrastructure/stories/202102270028>)

Now is the time for a reckoning, a realization: While it’s important to study the past to avoid repeating the same mistakes, the country must also look to its future and see the obvious — that America’s infrastructure as a whole needs some serious upkeep. Democrats and Republicans alike have flirted with the idea of a sweeping infrastructure bill in recent years, and President Joe Biden’s team is working to outline such legislation. These efforts should proceed swiftly — now is the time for Congress to invest in infrastructure, not only to help prevent crises, but also to jump-start an economy mired in the coronavirus pandemic. Despite being one of the richest countries in the world, the U.S. seems constantly to hover on the edge of disaster, with news of natural forces smashing through power grids and levies and fire prevention strategies on a yearly or monthly basis. Texas is only the most recent state to have been pushed over the edge. The American Society of Civil Engineers just this week gave America’s infrastructure an overall grade of C-minus in its quadrennial report card. The last grade was D-plus and that report cited decades of underfunding and unheeded recommendations. C-minus is an improvement but deserves not just federal attention but actual intervention. The report notes “we are heading in the right direction, but a lot of work remains.” There is opportunity in the recent economic and environmental devastation that grabs headlines and breaks hearts. In the aftermath of the Great Depression, the government put millions to work improving parks and building roads and bridges and airports. President Dwight Eisenhower’s interstate highway system remains the life veins of interstate travel. A new and vigorous infrastructure package for America would fix what needs to be fixed and offer the promise of an economic boon. The purpose of the federal government is to address the needs of American society in a way that can’t be tackled by states in a piecemeal fashion. What has happened in recent days within The Lone Star State demonstrates keenly that this is the time — actually past the time — that our federal leaders must shore up the foundations of our federation. Congress should act swiftly to lead states in reversing the entropy chewing away at America’s foundations. Until this happens, society stands on shifting sands.

#### Grid collapse kills hundreds of millions and eliminates adaptation to societal stressors

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Societies and nations are examples of large-scale, complex social-physical systems. Thus, societal resilience can be defined as the ability of a nation, population, or society to anticipate and prepare for major stressors or calamities and then to absorb, adapt to, recover from, and restore normal functions in the wake of such events when they occur. A nation’s dependence on its Critical Infrastructure systems, and the resilience of those systems, are therefore major components of national and societal resilience. There are a variety of events that could deal crippling blows to a nation’s Grid, Critical Infrastructure, and social fabric. The types of catastrophes under consideration here are “very bad day” scenarios that might result from severe GMDs induced by solar CMEs, HEMP attacks, cyber attacks, etc.5 As briefly discussed in Sec. III.C, the probability of a GMD of the magnitude of the 1859 Carrington Event is now believed to be on the order of 1%/year. The Earth narrowly missed (by only several days) intercepting a CME stream in July 2012 that would have created a GMD equal to or larger than the Carrington Event.41 Lloyd’s, in its 2013 report, “Solar Storm Risk to the North American Electric Grid,” 42 stated the following: “A Carrington-level, extreme geomagnetic storm is almost inevitable in the future…The total U.S. population at risk of extended power outage from a Carrington-level storm is between 20-40 million, with durations of 16 days to 1-2 years…The total economic cost for such a scenario is estimated at $0.6-2.6 trillion USD.” Analyses conducted subsequent to the Lloyd’s assessment indicated the geographical area impacted by the CME would be larger than that estimated in Lloyd’s analysis (extending farther northward along the New England coast of the United States and in the state of Minnesota),43 and that the actual consequences of such an event could actually be greater than estimated by Lloyd’s. Based on “Report of the Commission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) Attack: Critical National Infrastructures” to Congress in 2008 (Ref. 39), a HEMP attack over the Central U.S. could impact virtually the entire North American continent. The consequences of such an event are difficult to quantify with confidence. Experts affiliated with the aforementioned Commission and others familiar with the details of the Commission’s work have stated in Congressional testimony that such an event could “kill up to 90 percent of the national populationthrough starvation, disease, and societal collapse.” 44,45 Most of these consequences are either direct or indirect impacts of the predicted collapse of virtually the entire U.S. Critical Infrastructure system in the wake of the attack. Last, recent analyses by both the U.S. Department of Energy46 and the U.S. National Academies of Sciences, Engineering, and Medicine47 have concluded that cyber threats to the U.S. Grid from both state-level and substatelevel entities are likely to grow in number and sophistication in the coming years, posing a growing threat to the U.S. Grid. These three “very bad day” scenarios are not creations of overzealous science fiction writers. A variety of mitigating actions to reduce both the vulnerability and the consequences of these events has been identified, and some are being implemented. However, the fact remains that events such as those described here have the potential to change life as we know it in the United States and other developed nations in the 21st century, whether the events occur individually, or simultaneously, and with or without coordinated physical attacks on Critical Infrastructure assets.

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#### Next off is T private sector

#### Private sector means all non-governmental persons or entities, including non-profits

Senate Report 95 (Senate Report. 104-1, “UNFUNDED MANDATE REFORM ACT OF 1995,” <https://www.congress.gov/congressional-report/104th-congress/senate-report/1> , date accessed 9/10/21)

"Private sector" is defined to cover all persons or entities in the United States except for State, local or tribal governments. It includes individuals, partnerships, associations, corporations, and educational and nonprofit institutions.

#### Violation: the aff applies exclusively to conduct in a specific segment of the private sector.

#### Vote neg:

#### FIRST---limits and ground---the number of potential subsets is infinite---any industry, product, single companies, individuals---undermines clash. Only big affs have link uniqueness.

#### SECOND----precision---our interp has intent to define, exclude and is in legislative context.

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#### The United States federal government should substantially increase prohibitions on anticompetitive business practices by the private sector by expanding regulatory constraints on undemocratic governance in entities protected under the Co-operative Marketing Associations Act.

#### The counterplan solves and competes

Shelanski 18, Professor of Law @ Georgetown (Howard, “Antitrust and Deregulation,” Yale Law Journal)

A. Antitrust and Regulation as Policy Alternatives

A variety of institutions can govern economic competition. Decentralized, capitalist economies generally rely on markets themselves to provide the incen- tives and discipline necessary to keep prices low, output high, and innovation moving forward.8 But sometimes market forces alone cannot ensure efficiency and economic welfare—for example, when the market structure has changed due to mergers or the rise of a dominant firm, or when the market is an oligopoly susceptible to parallel conduct or collusion. In such cases, governance of competition by a nonmarket institution might be warranted. Because concentrated markets or even monopolies can arise for good reasons related to efficiency, in- novation, and consumer preference, the governance of competition more often involves vigilance than liability or injunctions. Then-Judge Stephen Breyer, long a leading scholar of antitrust and regulation, described the best situation as being an unregulated, competitive market in which “antitrust may help maintain com- petition.”9 Antitrust law aims to prevent the improper creation and exploitation of market power on a case-by-case basis while avoiding the punishment of commercial success justly earned through “skill, foresight and industry.”10 Thus, competition authorities like the FTC and the DOJ’s Antitrust Division review mergers, inves- tigate single-firm conduct, and prosecute collusion.11 Private plaintiffs can pur- sue civil antitrust liability through suits in the federal courts.12 To win their claims, enforcement agencies and private plaintiffs bear the burden of showing that the effect of a firm’s activity is “substantially to lessen competition, or to tend to create a monopoly,”13 or to constitute a “contract, combination, . . . or conspir- acy” in restraint of trade,14 or to “monopolize, or attempt to monopolize” any line of business.15 Antitrust is not, however, the only institution through which government addresses competition concerns and market failures. Congress can give regulatory agencies authority to intervene where they see the need to address competition and market structure—and Congress has often done so. With such statutory authority, “[i]n effect, the agency becomes a limited-jurisdiction enforcer of antitrust principles.”16 For example, the Department of Transportation (DOT) has jurisdiction to approve transfers of routes between airlines carriers, giving it a role in reviewing airline mergers.17 The 1992 Cable Act gave the FCC authority to limit the share of the national cable market that a single operator could serve, thereby giving the agency some control over the industry’s market structure.18 The FCC has long regulated market entry and, through its control over license transfers, reviewed mergers and acquisitions in several sectors of the telecom- munications industry. More recently, the FCC issued,19 and then repealed, 20 “network neutrality” regulations intended to preserve ease of entry and a level playing field for digital services. The Food and Drug Administration (FDA), Securities and Exchange Commission (SEC), Department of Energy, and numerous other federal agencies have various powers that directly affect competition.21 State regulation can be important as well in governing competition, particularly in the insurance and healthcare industries.22 In contrast to the case-by-case approach of antitrust, regulation typically im- poses ex ante prohibitions or requirements on business conduct. The Telecommunications Act of 1996, for example, required incumbent local telephone com- panies to grant new competitors access to parts of their networks and prohibited incumbents from refusing to interconnect calls from their customers to custom- ers of competing networks.23 With the rule in place, the FCC bore no burden of proving that a specific instance of network access was necessary for competition, or that a specific denial of interconnection would harm competition. In contrast to antitrust, where the burden of proving liability is on the agency, under a regulatory regime the burden of seeking a waiver from regulation or challenging an agency’s enforcement decision is usually on the regulated party. Antitrust and regulation therefore present alternative approaches to governing competition and addressing market failures.24 The government can review individual mergers under the antitrust laws, as it does in most markets, or it can set rules that impose clear, ex ante limits on the extent of concentration, as the FCC did for media ownership under the Communications Act.25 Government can investigate under the antitrust laws whether a firm has monopoly power that it has “willful[ly]” acquired or maintained other than “as a consequence of a su- perior product, business acumen, or historic accident.”26 Alternatively, with au- thority from Congress an agency can regulate how much of a market a single firm can serve, as the FCC tried to do with cable companies,27 or require firms to dispose of key assets in order to promote competition in a relevant market, as the DOT has done with airline slots.28

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#### T Core Antitrust Laws

#### The “core” antitrust laws are the Sherman Act, Clayton Act, and FTC Act—from the topic paper

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U.S. antitrust law is defined by federal and state statutes, as interpreted by the courts. The core federal statutes are the Sherman Act,1 passed by Congress in 1890, and the Federal Trade Commission2 and Clayton Acts,3 both passed in 1914. The United States Department of Justice (“DOJ”) and the Federal Trade Commission (“FTC” or “Commission”) (together the “agencies”) share enforcement of most areas of federal antitrust law but with some differences in the scope of their authority. The FTC has sole authority to enforce Section 5 of FTC Act, which prohibits (1) unfair methods of competition and (2) unfair or deceptive acts or practices. The FTC almost always pursues claims for anticompetitive conduct as unfair methods of competition and reserves charges of unfair or deceptive acts or practices for consumer protection violations. Though the FTC's authority to challenge unfair methods of competition goes beyond conduct prohibited by the Sherman and Clayton Acts, in practice the FTC brings most unfair methods of competition cases under the same standards that courts apply to Sherman Act claims. The most prominent exception is the invitation to collude offense, which falls outside the scope of the Sherman Act (if the invitation is not accepted, there is no agreement). The FTC challenges invitations to collude as so-called “standalone” violations of Section 5.4 The DOJ has sole authority to pursue criminal violations of the antitrust laws. Most states have their own state antitrust and unfair competition statutes. State law follows federal law to some extent, though as discussed below, may differ from federal law in meaningful ways that vary state to state. State attorneys general and private parties can also typically file suit to enforce both federal and state antitrust law.

#### Violation: the aff rules on the capper Volstead act, they are at best effectually expanding the clayton acton which is a independent voting issue for limits since any aff could expand the perview of a core anti-trust law.

#### VOTE NEG:

#### First, ground—our best links are predicated on expanding these core statutes

#### Second, limits—there are hundreds of bills with economic effects—allowing expansion of any bill tangentially related to antitrust is a nightmare

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#### TECH LEADERSHIP DA:

#### US tech leadership is secure, BUT antitrust cedes it.

Abbott 21, JD, MA, Senior Research Fellow at the Mercatus Center focusing on antitrust, formerly served as the Federal Trade Commission’s General Counsel. (Alden, *et al*, 3-10-2021, “Aligning Intellectual Property, Antitrust, and National Security Policy”, *Regulatory Transparency Project of the Federalist Society*, pg. 2-5, <https://regproject.org/wp-content/uploads/Paper-Aligning-Intellectual-Property-Antitrust-and-National-SecurityPolicy.pdf>)

II. The United States Plays a Critical Role in 5G Standards Development

The U.S. government has recognized that “5G is a critical strategic technology [such that] nations that master advanced communications technologies and ubiquitous connectivity will have a long-term economic and military advantage.”8 The U.S. has had a substantial technological edge over our military and intelligence rivals in foundational R&D for 5G and other next-generation technologies. U.S. companies have long been leaders in the development of previous generations of core mobile standards (2G, 3G, 4G, and LTE). This technological leadership has made it possible for U.S. companies to ensure the security and integrity of the hardware and software products that make up the backbone of the U.S. telecommunication systems. This leadership must continue for the U.S. government to more effectively anticipate potential security risks and take the necessary steps to protect national security.9

Despite this history of clear technological leadership, there are causes for concern. First, a very small number of U.S. companies have made the investments in the overwhelming majority of the R&D necessary to develop 5G.10 Historically, U.S. companies have heavily invested in R&D, which has propelled the U.S. into leadership positions in critical standard development organizations working on foundational next-generation technologies like 5G.11 U.S. companies like Qualcomm play a significant and important role in this process through innovation, patenting, and standard setting, but they are not alone in the global community of high-tech companies.12 Backed by their nations’ leadership, Chinese and Korean companies have also invested heavily in developing the core technologies for 5G.13

The willingness of U.S. companies to invest in R&D is threatened, however. The development of 5G is a bit like a race, with the companies who develop the best technology coming out ahead. While U.S. companies are savvy and talented competitors in this race, aggressive and unwarranted use of antitrust law by U.S. regulators, as well as by foreign antitrust authorities, threatens to put obstacles in these companies’ paths and hinder their ability to lead.

III. Overly Aggressive Antitrust Enforcement Hinders American Technological Leadership and Threatens National Security

As companies from around the world develop the technology and standards for 5G mobile devices and networks, American companies are under threat by aggressive antitrust enforcement that ultimately redounds to the benefit of these foreign companies, which are economic competitors in countries that are also military competitors of the U.S. Over the past five years, foreign governments, particularly in Asia, have subjected U.S. companies to antitrust investigations that failed to follow basic norms of the rule of law, such as providing basic due process protections.14 These antitrust investigations were a thinly-disguised effort by these countries to force the transfer of U.S. patented technology to their own domestic companies, or to insulate their domestic companies from American competition. In recent years, Chinese, Korean, and Taiwanese antitrust authorities have brought nearly 30 investigations against 60 foreign companies across a range of industries, including manufacturing, life sciences, and technology.15

Antitrust challenges undermine intellectual property rights by forcing companies to license their products on non-market-based terms. One prominent example in U.S. history is when the Department of Justice wrung a concession from AT&T to license royalty-free the entire portfolio of 8,600 patents held by Bell Labs in a 1956 antitrust consent decree with the company.16 Today, the White House Office of Trade and Manufacturing Policy has observed that “China uses the Antimonopoly Law of the People’s Republic of China not just to foster competition but also to force foreign companies to make concessions such as reduced prices and below-market royalty rates for licensed technology.”17 Companies have also complained about poor policy guidance and procedural protections under China’s competition laws.18 Others have complained about China’s use of its competition laws to promote policy objectives rather than protect competition and advance consumer welfare.19 In one example, companies raised concerns with Article 7 of China’s State Administration of Industry Commerce (SAIC) 2015 Rules on the Prohibition of Conduct Eliminating or Restricting Competition by Abusing Intellectual Property Rights.20 Under this provision, intellectual property constitutes an “essential facility,” which could allow parties to raise abuse of intellectual property rights claims against patent owners for a unilateral refusal to license their patents.21

Predatory antitrust enforcement actions threaten the ability of U.S. companies to continue to be leaders in 5G technological development. China and other nations with similarly restrictive regulatory frameworks can weaken the ability of the United States to compete in global markets by exacting high monetary penalties from U.S. intellectual property owners or forcing the transfer of their intellectual property to domestic commercial rivals. As a penalty for violations of its competition laws, China can impose exorbitant fines that range up to 10% of a foreign company’s entire revenue in the prior year.22 This is not a legal rule observed in the breach; it has already resulted in fines just shy of $1 billion.23

Another way in which courts in China and other foreign countries are harming U.S. companies is through the use of anti-suit injunctions. One example of this is in the recent patent infringement lawsuit brought by InterDigital, an American high-tech company that has developed key technologies in wireless telecommunication, against Chinese company Xiaomi. In June 2020, Xiaomi filed a lawsuit in the Wuhan Intermediate Court in China requesting that the court set global licensing rates for InterDigital’s patents on standardized technologies. In July 2020, InterDigital sued Xiaomi in India for infringement of InterDigital’s Indian patents. The Wuhan Intermediate Court then ordered InterDigital to stop its lawsuit with its request for an injunction in India. The Chinese court further prohibited InterDigital from suing Xiaomi and requesting an injunction or damages in the form of reasonable licensing rates, or even to enforce a previously-issued injunction, in any other country. If InterDigital does not comply with this worldwide injunction against pursuing legal relief for the violation of its patents in any other country, the company faces a significant fine in China. The type of judicial order issued by the Wuhan court is known as an anti-suit injunction and its purpose is to force an intellectual property dispute to play out solely in a Chinese court at the behest of the Chinese government. These court orders demonstrate China’s desire to become the source of 5G innovation and to dictate the licensing terms of the technology, and the anti-suit injunctions hamstring U.S. companies like InterDigital from enforcing their intellectual property rights anywhere in the world.

The unfair use of antitrust enforcement and related legal actions like anti-suit injunctions to weaken U.S. intellectual property rights around the world risks diminishing U.S. global competitiveness in critical technologies like 5G, and further empowers China and others to expand their influence over the evolving 5G technological ecosystem. To the extent the U.S. cedes its dominance in 5G standards development, China will continue its focused efforts to fill that void. Huawei, a China-based company, has increased its R&D spending while growing its share of patents on the standardized technologies comprising 5G.24 The President’s Council on Science and Technology issued a report concluding that Chinese actions in the semiconductor industry, which include a range of policies backed by over $100 billion in government funds, threaten U.S. leadership in the industry and present risks to U.S. national security.25 China’s “Made in China 2025” plan called for China to become a leader in 5G technology, including in the development of the standards for the technology, by 2020.26 The plan expressly favors Chinese domestic producers, calling for raising the domestic content of core components in high-tech industries like 5G to 70% by 2025.27

This issue, however, extends far beyond simply the ability and willingness of U.S. companies to engage in the requisite R&D to participate in the 5G race. Reduced U.S. influence on 5G standard-setting would force the U.S. government to rely on untrusted foreign companies for its 5G product supply. The Department of the Treasury has expressed concern about the “well-known” U.S. national security risks posed by Huawei and other Chinese telecommunications companies.28

#### Revisionist tech leadership causes nuclear war.

Kroenig & Gopalaswamy 18, \*Associate Professor of Government and Foreign Service at Georgetown University and Deputy Director for Strategy in the Scowcroft Center for Strategy and Security at the Atlantic Council. \*\*Director of the South Asia Center at the Atlantic Council. He holds a PhD in mechanical engineering with a specialization in numerical acoustics from Trinity College, Dublin. (Matthew & Bharath, 11-12-2018, "Will disruptive technology cause nuclear war?", *Bulletin of the Atomic Scientists*, <https://thebulletin.org/2018/11/will-disruptive-technology-cause-nuclear-war/>)

Rather, we should think more broadly about how new technology might affect global politics, and, for this, it is helpful to turn to scholarly international relations theory. The dominant theory of the causes of war in the academy is the “bargaining model of war.” This theory identifies rapid shifts in the balance of power as a primary cause of conflict.

International politics often presents states with conflicts that they can settle through peaceful bargaining, but when bargaining breaks down, war results. Shifts in the balance of power are problematic because they undermine effective bargaining. After all, why agree to a deal today if your bargaining position will be stronger tomorrow? And, a clear understanding of the military balance of power can contribute to peace. (Why start a war you are likely to lose?) But shifts in the balance of power muddy understandings of which states have the advantage.

You may see where this is going. New technologies threaten to create potentially destabilizing shifts in the balance of power.

For decades, stability in Europe and Asia has been supported by US military power. In recent years, however, the balance of power in Asia has begun to shift, as China has increased its military capabilities. Already, Beijing has become more assertive in the region, claiming contested territory in the South China Sea. And the results of Russia’s military modernization have been on full display in its ongoing intervention in Ukraine.

Moreover, China may have the lead over the United States in emerging technologies that could be decisive for the future of military acquisitions and warfare, including 3D printing, hypersonic missiles, quantum computing, 5G wireless connectivity, and artificial intelligence (AI). And Russian President Vladimir Putin is building new unmanned vehicles while ominously declaring, “Whoever leads in AI will rule the world.”

If China or Russia are able to incorporate new technologies into their militaries before the United States, then this could lead to the kind of rapid shift in the balance of power that often causes war.

If Beijing believes emerging technologies provide it with a newfound, local military advantage over the United States, for example, it may be more willing than previously to initiate conflict over Taiwan. And if Putin thinks new tech has strengthened his hand, he may be more tempted to launch a Ukraine-style invasion of a NATO member.

Either scenario could bring these nuclear powers into direct conflict with the United States, and once nuclear armed states are at war, there is an inherent risk of nuclear conflict through limited nuclear war strategies, nuclear brinkmanship, or simple accident or inadvertent escalation.

This framing of the problem leads to a different set of policy implications. The concern is not simply technologies that threaten to undermine nuclear second-strike capabilities directly, but, rather, any technologies that can result in a meaningful shift in the broader balance of power. And the solution is not to preserve second-strike capabilities, but to preserve prevailing power balances more broadly.

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#### Antitrust law enforcement has two areas of focus now: health care and big tech. Health care is under the radar.

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Lina Khan’s Federal Trade Commission has its eyes on health care. The agency known for efforts to rein in Big Tech companies like Facebook and Amazon is also enmeshed in high-stakes health care and health tech battles that extend well beyond Silicon Valley. Case in point: The FTC trial that kicked off yesterday examining monopoly concerns in the market for cancer screening technology. (More on that below.) That closely watched antitrust case — involving the giant Illumina and startup Grail — predates Khan’s confirmation as FTC chair. But it underscores how health issues are looming over the agenda, particularly heading into the pandemic's second year. The way health care companies and consumer health apps handle sensitive data “is an area that I'm sure [Khan’s] very, very interested in,” said Jessica Rich, former director of the FTC’s consumer protection bureau, adding that the Biden administration's FTC will also be closely scrutinizing hospital mergers. “I expect her and the commission to take a very bold approach to what constitutes harm for both,” Rich said. “I expect her to pay close attention to algorithms and potential discrimination in health care, both denials and pricing issues which the FTC's laws can address.” The FTC’s jurisdiction touches nearly the entire health economy. While its competition bureau looks at health care mergers like the Illumina-Grail deal, its consumer protection side is focused on health privacy and data security issues, as well as fighting bogus medical claims on everything from weight loss to Covid cures. When Congress passed the Covid-19 Consumer Protection Act last year, the agency was granted new authority to police Covid scams. Although Khan hasn't spoken publicly about her health care agenda, she's likely to take issue with health apps and companies whose business models maximize, incentivize and monetize data collection. Of particular concern is how firms disclose what they’re doing with consumers’ data — and whether it may still be deceptive or unfair.

#### The plan requires an unexpected, significant and drawn-out expenditure of finite law enforcement resources

Dafny 21, Professor of Business Administration at the Harvard Business School and the John F. Kennedy School of Government, and former Deputy Director for Healthcare and Antitrust in the Bureau of Economics at the Federal Trade Commission. Professor Dafny’s research focuses on competition in health care markets, and the intersection of industry and public policy. (Leemore, “The Covid-19 Pandemic Should Not Delay Actions to Prevent Anticompetitive Consolidation in US Health Care Markets,” *Pro Market*, <https://promarket.org/2021/06/10/covid-pandemic-consolidation-pandemic-monopoly/>)

However, as Commissioner Rebecca Slaughter, the current acting FTC chair has noted, these efforts have “faced resistance, with two of these recent victories only coming after district court setbacks.” Blocking a horizontal merger, even when it appears to be an “open and shut” case to a layperson, requires extraordinary resources, including large investigation and litigation teams, as well as economic and other subject matter experts who must analyze the transaction, lay out the case for blocking the merger, and rebut arguments advanced by Defendants’ attorneys and experts. To pick a recent example, consider the proposed merger of two hospital systems in the Memphis area, which the FTC filed to block in November 2020. Based on the FTC’s complaint, the merger would have reduced the number of competing systems from four to three and created a system with over a 50 percent market share. In the face of litigation, the parties abandoned the deal—consistent with this being a straightforward case. Although the FTC prevailed without a trial, it took nearly a year from the merger announcement to the abandonment. Over that period, the FTC likely devoted thousands of staff hours to the investigation and lawsuit and expended substantial taxpayer resources on expert witnesses. The higher the payoff from the merger for the merging parties—and the payoff in the case of an increase in market power can be substantial—the greater the incentive for defendants to invest extraordinary resources to fight a merger challenge. Even if there is only a middling (and in some cases, small) chance of getting a merger through, it may well be in the parties’ interest to see if they can prevail, absorbing the agencies’ (i.e., DOJ and FTC’s) scarce resources in that attempt and preventing them from devoting those resources to investigate other transactions or anticompetitive practices. The substantial resources required to challenge transactions, paired with stagnating enforcement budgets, may explain why authorities have elected not to challenge some horizontal transactions they would likely have challenged in previous eras. Using data on a wide range of industries, antitrust scholar John Kwoka documents that enforcers rarely raise concerns about changes in market structure that used to draw scrutiny—that is, mergers that yield five or more market participants.

#### Resources are finite and are drawn from under-the-radar M and A priorities

McCabe 18, covers technology policy from The Times' Washington bureau, formerly of Axios (David, “Mergers are spiking, but antitrust cop funding isn't,” Axios, <https://www.axios.com/antitrust-doj-ftc-funding-2f69ed8c-b486-4a08-ab57-d3535ae43b52.html>)

The number of corporate mergers has jumped in recent years, but funding has stagnated for the federal agencies that are supposed to make sure the deals won’t harm consumers. Why it matters: A wave of mega-mergers touching many facets of daily life, from T-Mobile’s merger with Sprint to CVS’s purchase of Aetna, will test the Justice Department's and Federal Trade Commission’s ability to examine smaller or more novel cases, antitrust experts say. What they’re saying: “You have finite resources in terms of people power, so if you are spending all of your time litigating big mergers … there might be some investigations where decisions might have to be made about which investigations you can pursue,” said Caroline Holland, who was a senior staffer in DOJ’s Antitrust Division under President Obama and is now a Mozilla fellow. What's happening: More mergers are underway now than at any point since the recession. The total number of transactions reported to the federal government in fiscal year 2017, and not including cases given expedited approval or where the agencies couldn't legally pursue an investigation, is 82% higher than the number reported in 2010 and 55% higher than the number reported in 2012. Funding for antitrust officials who weigh the deals hasn’t kept pace. The funding for the Department of Justice’s antitrust division has fallen 10% since 2010, when adjusted for inflation. That's in line with the broader picture: not adjusting for inflation, the Department's overall budget increased just slightly in 2016 and 2017. Funding for the FTC has fallen 5% since 2010 (adjusted for inflation). An FTC spokesperson declined to comment on funding levels and Antitrust Division officials didn't provide a comment. Driving the news: Merger and acquisition activity is up 36% in the United States compared to the same time last year, according to Thomson Reuters data from April. Several deals under government review have gotten national attention, including Sinclair’s purchase of Tribune's TV stations or T-Mobile’s deal with Sprint, which stands to reduce the number of national wireless providers from four to three. Meanwhile, the Justice Department is awaiting the ruling on its lengthy legal effort to block AT&T’s proposed $85 billion purchase of Time Warner. Yes, but: It’s not the attention-grabbing mega-mergers that advocates worry will get less of a close look thanks to a shortage of funds. Instead, some say budget limitations are likely to matter when officials are deciding which smaller or "borderline" deals to investigate further. “Sometimes there’s nothing there,” said Holland of the agency's early investigations. “Other times, it might be, ‘This is kind of a close call, and we’ve got three or four close calls and we need to pick one of them.’" "It could mean settlements get accepted that otherwise wouldn’t, or deals that should be challenged aren’t," said Michael Kades of the Washington Center for Equitable Growth, an antitrust-enforcement-friendly think tank that has done extensive research on the topic, in an email.

#### Health consolidation collapses public health

Numerof 20, PhD @ Bryn Mawr, internationally recognized consultant and author with over 25 years of experience in the field of strategy development and execution, business model design, and market analysis (Rita, “Covid-Induced Hospital Consolidation: What Are The Impacts On Consumers, And Potentially The President,” *Forbes*, <https://www.forbes.com/sites/ritanumerof/2020/11/11/covid-induced-hospital-consolidation-what-are-the-impacts-on-consumers-and-potentially-the-president/?sh=692d6fc94da0>)

Covid-19 has initiated yet another wave: A wave of hospital mergers and acquisitions that will have devastating consequences for public health if industry doesn’t soon execute an about-face. Whether because they’re on the brink of bankruptcy and have subscribed to the half-truth that size is protective, or because they think they can score some good deals and believe scale and success are synonymous, the financial fallout of Covid-19 has caused many hospital executives to make consolidation a core part of their future plans. With the intent of increasing care quality and decreasing consumer costs despite these challenging times, the merger between Shannon Medical Center and Community Hospital and partnership between Intermountain and Sanford Health are just two examples. There are multiple reasons why consumers absolutely cannot afford for industry to bulk up in an effort to weather this storm. The first is that the positive efforts executives claim consolidation will help them accomplish often prove to be futile. Research shows that wherever market concentration is high, there are also higher prices for both consumers and the employers who provide their healthcare coverage. In the absence of competition, costs increase and quality deteriorates. That’s the opposite of progress. Second, generally speaking, the union of two institutions with operational shortcomings only creates one larger institution with even more operational shortcomings! That’s not progress either. Third, Covid-induced consolidation will only make future progress many times more difficult. The larger an organization is, the more it will struggle to rapidly adapt to healthcare disruptions like we’re seeing today. Retail giants like Walmart, Walgreens, Amazon and CVS are pivoting to cater to healthcare consumer demands for affordability and accessibility. Right now, they’re still a blip on the radar relative to mainstream healthcare delivery, but they are looking to eventually corner the market and drive the industry forward. And as they continue down this path, consolidated healthcare systems will be left behind, potentially at the expense of the consumers in that area. The potential impact of continued consolidation on rural patients is especially concerning. Rural communities may have a limited number of the big-box retailers mentioned above. And the unfortunate fact of the matter is that when a larger hospital or health system purchases a smaller, rural hospital, it’s usually only a matter of time before the purchasing system realizes that unless they drastically pare down and reconfigure operations, the acquired hospital will never be profitable. Many eventually decide to close up shop, in some instances reducing or even eliminating rural patients’ options for care delivery. In the absolute worst-case scenario, this is exactly the reality all consumers could face if consolidation continues at its current pace. In theory and if left unchecked, all of the hospitals in the United States could be owned by only a handful of mammoth systems that then lack incentive to continually deliver quality services at lower total cost of care.

#### Strong public health infrastructure prevents bioterror attacks

Kosal 14, Adjunct Scholar to the Modern War Institute at the US Military Academy/West Point, Ph.D. in Chemistry from the University of Illinois at Urbana Champaign, Associate Professor at The Sam Nunn School of International Affairs at Georgia Tech (Margaret E. Kosal, “A New Role For Public Health in Bioterrorism Defense,” Frontiers in Public Health, Volume 2, Article 278)

In thinking about public health infrastructure as an active or passive part of new deterrence strategies, it is useful to think about the role of missile defense. As the presence of a ballistic missile defense system is supposed to be an existential deterrent itself, so could be a strong public health system. Missile defense is both a passive deterrent and, if used, an active deterrent, as it stops something from occurring. A strong public health infrastructure is likely to be the key in reducing the vulnerability to bioterrorism attack, as well as having a potential role in deterring a foreign terrorist group from even considering such an attack. If a biological weapon launched by a terrorist group will have little or no effect on the target country because of a known robust public health sector, then a foreign terrorist may be discouraged from launching a biological weapons attack in the first place. If foreign terrorists are also aware of the weak public health infrastructure with their own borders, and the increased risks to them and their publics in the event of an accident in developing biological weapons and/or spread of an infectious disease that they might launch, this may also deter them from pursuing this work. In addition, even the accidental release of a dangerous pathogen or the spread of an infectious disease via attack will most likely cause disproportional negative effects to nations with limited public health infrastructures and affect tacit and explicit supporters in those states. The role of a robust public healthcare system for its deterrence capacity can be explored through empirically driven case study methods against predominant theories of deterrence in political science (14, 15) and in comparison to other works considering the possibility of deterring bioterrorism (16–20). For example, the re-emergence of polio offers a potentially useful example to think about the effects of a potential bioterrorist attack on the developed and the developing world. Polio is both a contagious infectious disease and transmissible from human-to-human (like smallpox and plague). The poliovirus is highly transmissible with a basic reproductive rate or secondary transmission rate (R0) exceeding most suspected biological agents, e.g., standard estimates of R0 for polio range from 5 to 7 (21, 22), whereas R0 for suspected bioterrorist agents like smallpox (1.8–3.2) (23–25); pneumonic plague (0.8–3.0) (26, 27); and even Ebola (1.34–2.0) (28, 29) are lower. It is not a likely biological terrorism agent, however, due to the low-mortality associated with infection. It is, however, a useful model for thinking about the spread of infectious disease and the importance of a robust public health infrastructure as a deterrence strategy. At the beginning of 2003, the complete eradication of polio appeared to be within the grasp of the World Health Association and its many partners. In 1998, the World Health Organization estimated there were over 365,000 new cases of polio; by early 2003, the rate of infection had declined to <1,000 new cases worldwide due to a vigilant vaccination effort (30). That trend was interrupted, however, when Nigerian citizens refused to be vaccinated after hearing unfounded allegations of contaminated vaccines that would lead to sterility or cause HIV/AIDs. Before 2003, polio had largely been confined to only a handful of countries; Nigeria, India, Pakistan, and Afghanistan accounted for 93% of the world’s cases (31). What started with the refusal of local clerics to allow vaccination led to the reestablishment or importation of the poliovirus to 14 countries that were previously disease-free. Transport of the contagious virus was not limited to neighboring African states. The poliovirus moved through Sudan to Ethiopia crossing the Red Sea to Lebanon and Yemen. The latter was been particularly severely affected, witnessing more than 500 new cases in the first half of 2005. The poliovirus spread as far as Indonesia, where it afflicted more than 150 people in a single year in 2 provinces, predominantly children (32). Prior to this outbreak, Indonesia had been polio free for nine years. Genetic fingerprinting confirmed that the strain imported to Indonesia came from northern Nigeria through Sudan, most closely resembling an isolate recovered in Saudi Arabia in December 2004. A pilgrim returning from Mecca or a returning foreign worker is suspected to have brought the virus to the island of Java, across an ocean and thousands of miles from its source. The polio virus continues to persist in a limited number of states in the developing world, specifically in Nigeria, Afghanistan, and Pakistan, where a ban on vaccination by Islamist leaders in Waziristan remains in place. Since 2013, polio (linked genetically to the strain in Pakistan) has spread from Syria to Iraq (33). Countries that have witnessed the re-emergence of poliovirus outbreaks have some crucial links: social and political challenges that have impeded the development and implementation of appropriate public health infrastructures and measures. Not unexpectedly, there is an inverse relationship between government health expenditure in health and number of polio cases. Looking at the spread of polio can provide us with a lens to think about the impacts of bioterrorism in states with developed public health infrastructures and those who do not. A bioterrorist attack, especially one with a contagious agent like smallpox or pneumonic plague, will likely impact the developing parts of the world substantially more than the US. One only has to look as far as polio’s re-emergence (or more recently the outbreak of Ebola virus disease in West Africa) to see the very real repercussions of a contagious virus and how the most dire causes and effects of infection and spread stem from poor public health infrastructures (34). Creating a new deterrence strategy for bioterrorism is needed. Credibly, communicating the differential capacities to respond and the comparative likely outcomes will require diplomacy, coordination with civil affairs, specialized knowledge of individual states, and regions of the developing world. These are fundamentally interdisciplinary efforts that should leverage small teams from diplomatic, development, public health, and defense communities. One single parochial voice will be inadequate. Further improving the US domestic public health infrastructure would be beneficial and cost effective regardless of whether an outbreak is intentional or natural. The devastating Ebola outbreaks serve as a call for urgent investment in public health infrastructures worldwide, to provide both responsive and proactive actions to deter bioterrorism and to deal with natural disease outbreaks. Public health remains a powerful and often underutilized asset for bioweapons defense through vulnerability reduction; leveraging public health may also enable new approaches to deterring bioterrorism threats. International security scholars would benefit from better understanding of and leveraging the knowledge of the public health community.

#### Extinction without early response

Farmer 17 (“Bioterrorism could kill more people than nuclear war, Bill Gates to warn world leaders” http://www.telegraph.co.uk/news/2017/02/17/biological-terrorism-could-kill-people-nuclear-attacks-bill/)

Bioterrorists could one day kill hundreds of millions of people in an attack more deadly than nuclear war, Bill Gates will warn world leaders. Rapid advances in genetic engineering have opened the door for small terrorism groups to tailor and easily turn biological viruses into weapons. A resulting disease pandemic is currently one of the most deadly threats faced by the world, he believes, yet governments are complacent about the scale of the risk. Speaking ahead of an address to the Munich Security Conference, the richest man in the world said that while governments are concerned with the proliferation of nuclear and chemical weapons, they are overlooking the threat of biological warfare. Mr Gates, whose charitable foundationis funding research into quickly spotting outbreaks and speeding up vaccine production, said the defence and security establishment “have not been following biology and I’m here to bring them a little bit of bad news”. Mr Gates will today (Saturday) tell an audience of international leaders and senior officers that the world’s next deadly pandemic “could originate on the computer screen of a terrorist”. He told the Telegraph: “Natural epidemics can be extremely large. Intentionally caused epidemics, bioterrorism, would be the largest of all. “With nuclear weapons, you’d think you would probably stop after killing 100million. Smallpox won’t stop. Because the population is naïve, and there are no real preparations. That, if it got out and spread, would be a larger number.” He said developments in genetic engineering were proceeding at a “mind-blowing rate”. Biological warfare ambitions once limited to a handful of nation states are now open to small groups with limited resources and skills. He said: “They make it much easier for a non-state person. It doesn’t take much biology expertise nowadays to assemble a smallpox virus. Biology is making it way easier to create these things.” The increasingly common use of gene editing technology would make it difficult to spot any potential terrorist conspiracy. Technologies which have made it easy to read DNA sequences and tinker with them to rewrite or tweak genes have many legitimate uses. He said: “It’s not like when someone says, ‘Hey I’d like some Plutonium’ and you start saying ‘Hmmm.. I wonder why he wants Plutonium?’” Mr Gates said the potential death toll from a disease outbreak could be higher than other threats such as climate change or nuclear war. He said: “This is like earthquakes, you should think in order of magnitudes. If you can kill 10 people that’s a one, 100 people that’s a two... Bioterrorism is the thing that can give you not just sixes, but sevens, eights and nines. “With nuclear war, once you have got a six, or a seven, or eight, you’d think it would probably stop. [With bioterrorism] it’s just unbounded if you are not there to stop the spread of it.” By tailoring the genes of a virus, it would be possible to manipulate its ability to spread and its ability to harm people. Mr Gates said one of the most potentially deadly outbreaks could involve the humble flu virus. It would be relatively easy to engineer a new flu strain combining qualities from varieties that spread like wildfire with varieties that were deadly. The last time that happened naturally was the 1918 Spanish Influenza pandemic, which went on to kill more than 50 million people – or nearly three times the death toll from the First World War. By comparison, the recent Ebola outbreak in West Africa which killed just over 11,000 was “a Richter Scale three, it’s a nothing,” he said. But despite the potential, the founder of Microsoft said that world leaders and their militaries could not see beyond the more recognised risks. He said: “Should the world be serious about this? It is somewhat serious about normal classic warfare and nuclear warfare, but today it is not very serious about bio-defence or natural epidemics.” He went on: “They do tend to say ‘How easy is it to get fissile material and how accurate are the plans out on the internet for dirty bombs, plutonium bombs and hydrogen bombs?’ “They have some people that do that. What I am suggesting is that the number of people that look at bio-defence is worth increasing.” Whether naturally occurring, or deliberately started, it is almost certain that a highly lethal global pandemic will occur within our lifetimes, he believes. But the good news for those contemplating the potential damage is that the same biotechnology can prevent epidemics spreading out of control. Mr Gates will say in his speech that most of the things needed to protect against a naturally occurring pandemic are the same things needed to prepare for an intentional biological attack. Nations must amass an arsenal of new weapons to fight such a disease outbreak, including vaccines, drugs and diagnostic techniques. Being able to develop a vaccine as soon as possible against a new outbreak is particularly important and could save huge numbers of lives, scientists working at his foundation believe.

### 1NC

#### T Prohibition

#### “Prohibition” requires a declaration of per se illegality

Loevinger 61 (Honorable Lee Loevinger- Assistant Attorney General in charge of the Antitrust Division. “THE RULE OF REASON IN ANTITRUST LAW” , *Section of Antitrust Law* , 1961, Vol. 19, PROCEEDINGS AT THE ANNUAL MEETING, ST. LOUIS, MISSOURI, AUGUST 7 THROUGH 11, 1961 (1961), pp. 245-251, JSTOR accessed online via KU libraries, date accessed 9/13/21)

Running through the history of antitrust law are two contrapuntal themes: A prohibition of restraint of trade and a principle lately called the "rule of reason" which limits the prohibition. The legal rule against restraint of trade began in the 15th century in cases holding that a contract by which a man agreed not to practice his trade or profession was illegal.1 However, in the course of development of the common law, it became established that agreements which were ancillary to the sale or transfer of a trade or business and which were limited so as to impose a restriction no greater than reasonably necessary to protect the purchaser's interest.2

Thus, when the Sherman Act incorporated the common-law principles on this subject into federal statutory law 3 by adopting the concept of restraint of trade, it presumably imported both the principle that restrictions on competition are illegal and also the principle that in some circumstances a showing of reasonableness will legalize restrictions on competition. Nevertheless, when the question was first presented to the United States Supreme Court under the Sherman Act, it was clearly held (despite later disavowals4 ) that the justification of reasonableness was not available as a defense to a combination which had the effect of restraining trade.' Indeed, it was intimated that the question of reasonableness was not open to the courts in these actions at common law.6 However, when the Court reviewed this matter in Standard Oil Co. v. United States,7 it said in fairly explicit terms both that the Sherman Act prohibited only contracts or acts which unreasonably restrained competition and that the standard of reasonableness had been applied to all restraints of trade at the common law. The Court's assertion is somewhat weakened by the fact that it construed the rule of reason not as applying a standard for judging the character or consequences of the challenged conduct, but as a technique involving the application of human intelligence, or reason, to the problem of making a judgment about whether the conduct does restrain trade.'

#### The aff violates—they create a new legal standard for courts to decide whether a practice is “unreasonable” based on weighing evidence—not a declaration of illegality without inquiry

McKibben 85 (Michael D. McKibben-Vanderbilt University Law School, J.D., 1985, Vanderbilt Law Review, Associate Editor; Patrick Wilson Scholar. The Resale Price Maintenance Compromise: A Presumption of Illegality, 38 Vanderbilt Law Review 163 (1985), Available at: <https://scholarship.law.vanderbilt.edu/vlr/vol38/iss1/3> , date accessed 9/13/21)

In United States v. Colgate & Co." the Court developed a major exception to Dr. Miles. The Colgate doctrine allows a weak form of RPM by manufacturers or wholesalers that have attempted unilaterally to set prices.6 Although the Colgate doctrine has lost much of its vitality due to years of restrictive interpretation, in Russell Stover Candies, Inc. v. FTC7 the United States Court of Appeals for the Eighth Circuit upheld Colgate against a challenge by the Federal Trade Commission. In addition, the Supreme Court, in Monsanto Co. v. Spray-Rite Service Corp.," recently intimated new-found support for the Colgate doctrine and a possible willingness to reconsider the Dr. Miles per se prohibition against RPM.9

The outcome of vertical pricing cases under section 1 has depended upon the perceived effects of RPM on competition. Current RPM decisions, however, rest on the principles of stare decisis and, therefore, do not depend upon political and economic theories that have developed since Dr. Miles.10 Early courts denounced vertical restraints as analogous to horizontal price fixing, which courts have assumed the drafters of the Sherman Act intended to prohibit per se. 11 Later cases, however, illustrate that the analogy between vertical and horizontal trade restrictions is not analytically sound, and the Supreme Court's attempt to maintain the per se approach to RPM has led to serious theoretical and practical problems. 12

This Note explores several problems with recent RPM decisions: (1) the effect of the per se rule on producers' rights to control their marketing strategies; (2) inconsistent use of the plural action requirement as a foil for avoiding or invoking the per se rule; (3) the suppression of benign or procompetitive activities because of the rule; (4) the difficulties with free rider marketing; and (5) the obstacles to advice and planning that recent decisions have created. This Note contends that a new standard, a rebuttable presumption13 against legality, would alleviate most, if not all, problems that the inflexible per se rule causes.

A rebuttable presumption, followed by rule of reason analysis 14 [[BEGIN FOOTNOTE 14]] 14. Under the rule of reason "the factfinder weighs all of the circumstances of a case in deciding whether a restrictive practice should be prohibited as imposing an unreasonable restraint on competition." Sylvania, 433 U.S. at 49. [[END FOOTNOTE 14]] in cases in which the defendant satisfies the threshold inquiry,15 would restore certainty and intellectual honesty to RPM cases. The rebuttable presumption would eliminate the need to reconcile contrary cases and the need to consider issues that parties now must address under the rule of reason. While the rebuttable presumption does not require that courts maintain or reject the Colgate doctrine,16 this Note argues that the Court could retain Colgate but primarily rely upon the guidelines and safeguards of the rebuttable presumption. This new line of inquiry would retain the benefits of the per se rule-efficiency and certainty-and would remain flexible enough to accommodate special cases in which RPM may be beneficial to the market. In many cases, the rebuttable presumption also would save society, courts, and litigants the protracted costs of rule of reason analysis.

Part II of this Note considers major RPM cases since the early 1900s, with special focus on Russell Stover and Filco v. Amana Refrigeration, Inc.,'17 cases which protect the defendant under the Colgate doctrine. Part III analyzes the weaknesses of the per se rule and the benefits that could inure to manufacturers and the marketplace under the rebuttable presumption. Part IV examines the strengths and weaknesses of the rule of reason and offers an improved rule of reason approach as the second part of the rebuttable presumption standard. Finally, Part V outlines a suggested analysis for RPM disputes using a rebuttable presumption of illegality. Part V also considers the effects of the presumption on federal antitrust laws.

II. THE CURRENT CONTROVERSY

A. Minimum Price Restrictions in the Supreme Court

Vertical price restrictions are written or oral directives setting a price above or below which a manufacturer wishes its distributors to sell. If the manufacturer establishes a price below which a distributor should not resell a product, the manufacturer is imposing minimum price RPM. Maximum price RPM-the setting of price ceilings- and minimum RPM are per se violations of section 1 of the Sherman Act."' Nonprice vertical restrictions, however, which include primarily territorial distributorship limitations, generally are reviewed under the rule of reason. 19

1. Dr. Miles: The Per Se Rule

Dr. Miles Medical Co. v. John D. Park & Sons Co.20 is the basis of much of the current academic criticism of the Supreme Court's RPM approach.2 ' The plaintiff Dr. Miles, a medicine manufacturer, required its wholesalers and retailers to adhere to a minimum resale price schedule. The plaintiff also required its wholesalers to maintain control over the retailers' subsequent resale prices. The defendant Park & Sons, a wholesaler that refused to purchase from Dr. Miles under the minimum price contract, bought Dr. Miles' medicines from third parties and resold them below the plaintiff's price schedule. The plaintiff charged the defendant with inducing the plaintiff's distributors to breach their contracts by reselling to a price cutter.22 The Court denied the plaintiff's request for relief and held that the plaintiff's contract provision was void under common law and the Sherman Act. 3

After determining that the agreement between Dr. Miles and its vendees fulfilled the duality requirement of the Sherman Act,24 the Court found that the plaintiff's resale price schedule eliminated competition by controlling the price at which all purchasers received the product.25 The Court refused to accept the defendant's argument that producers of patented products have a right ordinary sellers do not have-the right to dictate the destiny of their products.26 The Court inquired whether the plaintiff had a right to restrain trade. The Court held that generally a right to control alienation does not exist without an agreement.2 7 Applying the common-law rule that contractual restraints on alienation must be reasonable and limited to the necessity of the circumstances, 2 the Court found that Dr. Miles' agreement did not fit any of the common forms of acceptable restraints.29

The Court's final inquiry was whether the benefits that the plaintiff gained from its pricing restrictions were entitled to more protection than the property rights that the defendants had in the medicine.30 The Court's response to this issue forms the heart of the per se rule.31 [[BEGIN FOOTNOTE 31]] 31. Per se rules prohibit certain conduct without inquiry into possible justifications for the conduct. Courts impose per se rules when the interests of judicial economy outweigh other interests. See Note, Fixing the Price Fixing Confusion: A Rule of Reason Approach, 92 YALE L.J. 706, 708 (1983). [[END FOOTNOTE 31]] Although the Court never explicitly condemned all vertical price fixing agreements, it found that the effects of the Dr. Miles scheme were the same as the effects that could result from horizontal price fixing at the dealer level. The Court, therefore, held that both kinds of price fixing were illegal.3 2 The Supreme Court's focus on the effects of the alleged violative activity, without regard to its purposes or benefits, is characteristic of other Supreme Court per se decisions. 3

The breadth of the Dr. Miles decision is still unclear.3 4 A narrow interpretation of the holding is that express contractual provisions restraining resale prices violate the Sherman Act. The decision left open many further questions, the first of which the Court answered by creating the Colgate exception.

2. The Colgate Exception

The Court's 1919 decision in United States v. Colgate & Co.35 is still difficult for courts and commentators to harmonize with the Dr. Miles rule of per se illegality.3 6 In Colgate the prosecution charged the defendant under the Sherman Act 37 with forming an illegal combination to fix resale prices among the wholesalers and retailers of the defendant's soap and toilet products.3 8 Colgate circulated price lists, along with provisions for penalties to distributors that did not adhere to the defendant's price lists. Colgate also engaged in policing activities, such as obtaining information from other distributors concerning noncomplying dealers, and requesting assurances from nonuniform pricers that they would comply with the defendant's guidelines. 39

The trial court sustained the defendant's demurrer 40 and the Supreme Court affirmed on direct appeal. The Court permitted the defendant's pricing structure based on the trial court's finding that Colgate reserved no contractual rights in the goods after their sale to dealers. Colgate could enforce the price restrictions only by later refusing to deal with wholesalers and retailers that breached their contracts.41 According to the Court, because the contracts in Dr. Miles "undertook to prevent dealers from freely exercising the right to sell," Dr. Miles was distinguishable from Colgate.42 The Court then laid out the Colgate doctrine: "In the absence of any purpose to create or maintain a monopoly, the [Sherman Act] does not restrict the long recognized right of a trader or manufacturer engaged in an entirely private business, freely to exercise his own independent discretion as to parties with whom he will deal. 43 If the Court had employed the "effects only" logic that it used in Dr. Miles, Colgate would have been an inconsequential extension of the Dr. Miles progeny. By blending the section 1 duality requirement with common-law business principles, however, the Court created an exception to the per se rule.44

3. Narrowing Colgate

The Court quickly issued three decisions reaffirming the viability of Colgate, but in increasingly narrow circumstances. 45 Less than one year after Colgate, the Court decided United States v. A. Schrader's Son, Inc.46 Schrader's Son was factually similar to Dr. Miles,47 but the district court initially held for the defendant, reasoning that Colgate implicitly had overruled Dr. Miles.48 The Supreme Court reversed, stressing that its intent in Colgate was only to preserve the manufacturer's right to announce its pricing policy and cease to do business with dealers that failed to comply. 49

Based on this narrow interpretation of Colgate, the Court extended the scope of Dr. Miles to implicit agreements that attempt to make resale rates binding, including agreements "implied from a course of dealing or other circumstances." 0 The Court contrasted Colgate's holding with situations in which "the parties are combined through agreements designed to take away dealers' control of their own affairs and thereby destroy competition." 51 This language created a major expansion of the per se rule by shifting the Court's inquiry from "contract" to the less restrictive term "agreement." The Court's characterization of implicit agreements as section 1 violations is the basis of most criticism of the per se rule.52 Schrader's Son did not resolve the open distinction between implicit agreements that derive from dealer acceptance of fixed prices and unilateral declarations of terms that originate from a manufacturer's normal course of dealing.

The Supreme Court was quick to quell rumors of Colgate's early demise. In Frey & Son, Inc. v. Cudahy Packing Co.53 the trial court instructed the jury that the plaintiff could prevail despite the lack of an express or implied agreement or objections to the seller's pricing demands.5 4 The Supreme Court held that the jury instruction was insufficient to establish the defendant's liability under section 1. 55 Despite the Court's inability to draw a clear distinction between Dr. Miles and Colgate, the Court refused to extend the per se rule to prohibit inferential agreements.

#### VOTE NEG

#### FIRST---Ground---balancing tests devastate core links, because they allow the practice when it’s beneficial. AND, creates a moving target, because the disallowed behavior is context-dependent.

#### SECOND---Bidirectionality---rule of reason creates legally protected practices

Graglia 8 (Lino A. Graglia is the A. Dalton Cross Professor of Law at the University of Texas. “The Antitrust Revolution”, *Engage* Vol. 9, Issue 3, <https://fedsoc-cms-public.s3.amazonaws.com/update/pdf/HfSHUKp1jnxxov80FkGORMCD5eojoela0HkiRejm.pdf> , October 2008, date accessed 9/14/21)

Although Section 1 of the Sherman Act prohibits “every contract, combination…, or conspiracy, in restraint of trade,”7 it was early and necessarily—since the purpose of every contract is to restrain—decided that it prohibited only “unreasonable” restraints on trade.8 Under the resulting “Rule of Reason,” only business practices found to be net anticompetitive and without efficiency justification were (and are) illegal. Some practices, however, have been declared to be always or almost always anticompetitive and without justification—and therefore are said to be illegal per se. Because a challenged practice’s anticompetitive effects and lack of justification are typically very difficult to show—largely because they characterize few business practices—the Rule of Reason tends to become a rule of legal per se.9 The Rule of Reason means that antitrust plaintiff s will rarely win and, therefore, that few antitrust suits will be brought. Th e liberal justices of the Warren Court dealt with the “problem” by tending to declare nearly all challenged practices illegal per se.

### 1NC

#### Text: The 50 United States and relevant subnational entities should enact and enforce expanded prohibitions on undemocratic governance in entities protected under the Co-operative Marketing Associations Act..

#### State antitrust is enforceable and solvent.

Lange et al. 21, \*Perry A., JD, antitrust lawyer, vice-chair of the ABA Antitrust Section’s Joint Conduct Committee. \*Brian K. Mahanna, JD, former chief of staff and deputy attorney general in the Office of the New York State Attorney General, \*Nicole Callan, JD, vice chair of the Civil Practice and Procedure Committee of the American Bar Association (ABA)'s Section of Antitrust Law, \*Álvaro Mateo Alonso, LLM, Law Degree, antitrust lawyer. (3-5-2021, "Developments in Antitrust Law: Keep an Eye on New York", *WilmerHale*, Full report accessible at: https://www.wilmerhale.com/en/insights/client-alerts/20210305-developments-in-antitrust-law-keep-an-eye-on-new-york)

Although much attention recently has been focused upon debates in Congress, potential legislative changes to U.S. antitrust law are not limited to proposals at the federal level. Many states are considering changes to their own antitrust laws, which usually can be enforced by state attorneys general and private plaintiffs. Importantly, New York legislators have introduced two bills that propose sweeping changes to the State’s antitrust law, the Donnelly Act, building on measures introduced in New York’s last legislative session.

These proposals, if enacted, would make New York’s single firm conduct statutory provisions the most aggressive in the United States and would give the New York Attorney General a more prominent role in reviewing transactions—including by creating a first-of-its-kind state merger notification requirement. These changes would allow New York’s antitrust law to reach a range of conduct not actionable under any existing federal or state antitrust law, and would introduce European-style antitrust standards to New York. Accordingly, this reform would create considerable new compliance challenges and risk for companies potentially subject to New York antitrust law, whether or not those companies are located in New York.

Other U.S. states and territories are considering antitrust law changes, but the New York proposals are the most significant. Although much of the conversation concerning developments in antitrust law has focused on “Big Tech” companies, these proposals would affect businesses across all sectors of the economy. This alert discusses these legislative proposals and key implications for businesses.

## Case

## Adv 1

### 1NC---!D---Food Wars

#### Food insecurity doesn’t cause war.

Vestby et al 18, \*Jonas, Doctoral Researcher at the Peace Research Institute Oslo, \*\*Ida Rudolfsen, doctoral researcher at the Department of Peace and Conflict Research at Uppsala University and PRIO, and \*\*\*Halvard Buhaug, Research Professor at the Peace Research Institute Oslo (PRIO); Professor of Political Science at the Norwegian University of Science and Technology (NTNU); and Associate Editor of the Journal of Peace Research and Political Geography. (5/18/18, “Does hunger cause conflict?”, *Climate & Conflict Blog*, <https://blogs.prio.org/ClimateAndConflict/2018/05/does-hunger-cause-conflict/>)

It is perhaps surprising, then, that there is little scholarly merit in the notion that a short-term reduction in access to food increases the probability that conflict will break out. This is because to start or participate in violent conflict requires people to have both the means and the will. Most people on the brink of starvation are not in the position to resort to violence, whether against the government or other social groups. In fact, the urban middle classes tend to be the most likely to protest against rises in food prices, since they often have the best opportunities, the most energy, and the best skills to coordinate and participate in protests.

Accordingly, there is a widespread misapprehension that social unrest in periods of high food prices relates primarily to food shortages. In reality, the sources of discontent are considerably more complex – linked to political structures, land ownership, corruption, the desire for democratic reforms and general economic problems – where the price of food is seen in the context of general increases in the cost of living. Research has shown that while the international media have a tendency to seek simple resource-related explanations – such as drought or famine – for conflicts in the Global South, debates in the local media are permeated by more complex political relationships.

### 1NC – !D – Heg

#### Data proves no impact to heg

**Fettweis 17.** Christopher J. Fettweis – Associate Professor of Political Science at Tulane University. “Unipolarity, Hegemony, and the New Peace,” Security Studies, Vol 26, No 3. https://www.tandfonline.com/doi/abs/10.1080/09636412.2017.1306394?journalCode=fsst20

How does one measure polarity? Power is traditionally considered to be some combination of military and economic strength, but despite scores of efforts, no widely accepted formula exists. Perhaps overall military spending might be thought of as a proxy for hard power capabilities; perhaps too the amount of money the United States devotes to hard power is a reflection of the strength of the unipole. When compared to conflict levels, however, there is no obvious correlation, and certainly not the kind of negative relationship between US spending and conflict that many hegemonic stability theorists would expect to see. During the 1990s, the United States cut back on defense by about 25 percent, spending $100 billion less in real terms in 1998 that it did in 1990.68 To those believers in the neoconservative version of hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace,” argued Kristol and Kagan at the time.69 The world grew dramatically more peaceful while the United States cut its forces, however, and stayed just as peaceful while spending rebounded after the 9/11 terrorist attacks. The incidence and magnitude of global conflict declined while the military budget was cut under President Clinton, in other words, and kept declining (though more slowly, since levels were already low) as the Bush administration ramped it back up. Overall US military spending has varied during the period of the New Peace from a low in constant dollars of less than $400 billion to a high of more than $700 billion, but war does not seem to have noticed. The same nonrelationship exists between other potential proxy measurements for hegemony and conflict: there does not seem to be much connection between warfare and fluctuations in US GDP, alliance commitments, and forward military presence. There was very little fighting in Europe when there were 300,000 US troops stationed there, for example, and that has not changed as the number of Americans dwindled by 90 percent. Overall, there does not seem to be much correlation between US actions and systemic stability. Nothing the United States actually does seems to matter to the New Peace.

## Adv2

### 1NC – !D – Populism

#### It’s inevitable

**Clark 18**. Jennifer Clark – freelance journalist based in Italy and author of "Fiat, Chrysler and the Power of a Dynasty." She has written for The Wall Street Journal, Reuters and Bloomberg. <KEN> "Populism in Europe is thriving. The West should prepare itself for a new normal," NBC News. March 2, 2018. DOA: 9/30/18. https://www.nbcnews.com/think/opinion/populism-europe-thriving-west-should-prepare-itself-new-normal-ncna855396

Does this mean that the EU is dead? Not exactly. But it does indicate that populism in the West is thriving — and will likely continue to do so for some time. The populist Five Star Movement and the anti-immigrant League won nearly 50% of seats in parliament, although it’s still not clear whether either has the numbers to govern. Italy has now abandoned over 70 years of careful centrism and joined the club of countries where populism is growing: Germany, France, the UK, Poland, Hungary and the U.S. The fall of the Berlin Wall in 1989 and the onslaught of globalization created a new global landscape characterized by loss of national sovereignty, open borders, financial deregulation, the rise of China and jobs being displaced by outsourcing or technology. The speed and the disruption of these changes has resulted in a new post-Cold War political context dominated by euro skepticism, fear of immigrants and the anger of an insecure middle class. “Globalization could not be stopped, but it happened too quickly,” Italy’s former Economy Minister Giulio Tremonti told me. Tremonti's 2005 book, “Fatal Risks,” accurately predicted that China joining the World Trade Organization in 2001 would make Italian workers poorer. “There’s never been so much social change in a twenty-year period. Now we are looking at the results.” None of this is new. But Italy’s election is perhaps an inflection point between the old and new politics. We may be witnessing the moment when the previously unthinkable became the new normal. By odd coincidence, President Donald Trump’s former strategist Steve Bannon swung through Europe ahead of Italy’s vote on his way to a speaking engagement in Switzerland, acting as a sort of self-appointed roving world ambassador of populism. Bannon wants to see populist movements on both sides of the Atlantic join forces, he told Milan daily Corriere della Sera. “People have had enough, and want their sovereignty back. This Italian election is crucial for the global populist movement,” he said. Populism is now widespread in Europe even in countries previously thought to be somehow “immune” because of a strong liberal tradition (in the European sense). The defeat of populists Geert Wilders in the Netherlands and Marine Le Pen in France last year’s elections was supposed to have turned the tide on euroskeptic, populist and anti-immigrant parties. But the German election in September 2017, in which the rightwing and anti–Muslim Alternative fur Deutschland (AfD) party won 13%, suggested the relief that followed France’s election may have been premature. Recommended Matt Damon as an angry Kavanaugh grilled on 'SNL' season opener Limits to FBI's Kavanaugh investigation have not changed, despite Trump's comments Populism is now widespread in Europe even in countries previously thought to be somehow “immune” because of a strong liberal tradition (in the European sense). Around one fifth of European voters, or 55.8 million people, now pick left- or right-wing populist parties, according to a 2017 study by the European Policy Information Center. Meanwhile, Hungary, Poland and Greece (and Italy after March 4) are the countries where anti-establishment parties are strongest. “Observing these long-run trends, there are no signs that support for anti-establishment parties will decrease in the short run,” the European Policy Information Center noted. And tellingly, the motivations for populism vary depending on the country. Populism and anti-immigrant sentiment in Poland and Hungary stems from disappointment about how the transition from Communism turned out for them. First came the turbulent transition phase in the 1990s, when the standard of living plummeted. Cities like Warsaw and Budapest created pockets of wealth, while smaller cities and the countryside remained mired in poverty. If Europe’s euroskeptic populist parties continue to grow at this rate, at some point they will start to put serious pressure on the European Union. In Germany, the rise of AfD is largely seen as a response to Chancellor Angela Merkel’s decision to let some one million refugees into Germany in 2015 at the height of the migration crisis, the year that over 3,700 people died crossing the Mediterranean in the world’s most deadly migrant route. Anti-establishment parties in Italy have divided along geographic lines, with the Five Star Movement’s welfare promises attracting voters in the poor south, where over 10% of people are living in absolute poverty compared to 6% in the north. The center-right meanwhile has swept the wealthy north where voters are more concerned with safety and immigration. If Europe’s euroskeptic populist parties continue to grow at this rate, at some point they will start to put serious pressure on the European Union’s vision of unity and collective prosperity. Leaders like Salvini promise voters to “ignore or rip up” EU rules that don’t suit them, like keeping Italy’s deficit under 3% of GDP for members of the single currency. Italy is not leaving the EU or the euro any time soon. Brussels averted Greece’s departure from the eurozone in 2015 and is now dealing with Brexit. But a new populist government in Italy could set itself on a collision course with Brussels on immigration or public spending. Europe is adept at lurching from crisis to crisis. We’d better get used to it.

## Adv 3

### 1NC – !D – Warming

#### Indian and Chinese emissions overwhelm

Loris et al. 16. (Nicolas D. Loris is Herbert and Joyce Morgan Fellow in the Thomas A. Roe Institute for Economic Policy Studies, of the Institute for Economic Freedom and Opportunity, at The Heritage Foundation. Brett D. Schaefer is Jay Kingham Senior Research Fellow Fellow in International Regulatory Affairs in the Margaret Thatcher Center for Freedom, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation. Steven Groves is Bernard and Barbara Lomas Senior Research Fellow in the Thatcher Center. “The U.S. Should Withdraw from the United Nations Framework Convention on Climate Change,” Heritage Foundation. June 9, 2016. http://www.heritage.org/research/reports/2016/06/the-us-should-withdraw-from-the-united-nations-framework-convention-on-climate-change)

U.N. climate conferences have become increasingly irrelevant, in large part because the approach taken is unworkable. International negotiations have centered on placing the economic burden of addressing climate change on a few dozen developed countries while asking little or nothing from more the 150 developing countries. But the primary source of GHG emissions is increasingly the developing world, most notably from large developing economies such as China and India. Even if the U.S. cut 100 percent of its CO2 emissions it would not make a significant difference in projected global warming. Using the same climate sensitivity (which is arguably higher than reality) as the IPCC assumes in its modeling, the world would only be 0.137 degrees Celsius cooler by 2100 if the U.S. cut its CO2 emissions by 100 percent. If the entire industrialized world cut its CO2 emissions by 100 percent it would avert warming by only 0.278 degrees Celsius by the turn of the century.[36] Using the IPCC’s own assumptions, to have a meaningful impact on global temperatures, any agreement would require significantly reduced emissions from both developed and developing countries. Such a course would be economically devastating, however, and was one reason why Canada pulled out of the Kyoto Protocol, and why Japan, Russia, and Canada have said they would not commit to a new treaty with binding commitments to reduce emissions.[37] Proponents of an international agreement and the UNFCCC point to China and India’s commitment to reduce CO2 emissions as evidence that the developing world is serious about such reductions. For example, China agreed to peak its GHG emissions by 2030. Non-binding promises to cut emissions 14 years from now are a small price to pay for continuing the status quo.

#### No climate impact

**Cass 17**. (Oren Cass – B.A. in political economy from Williams College and a J.D. from Harvard Law School, senior fellow at the Manhattan Institute. “How to Worry about Climate Change,” National Affairs. Winter 2017. DOA: 4/22/19. <http://www.nationalaffairs.com/publications/detail/how-to-worry-about-climate-change>)

Even focusing within that range, estimates for the expected environmental impacts of warming vary widely. The IPCC represents the gold standard for synthesizing scientific estimates, and, crucially, its best guesses bear little resemblance to the a pocalyptic predictions often repeated by activists and politicians. For instance, the IPCC estimates that sea levels have risen by half a foot over the past century and will rise by another two feet over the current century. At the high end of the 3-to-4-degree range, it reports the impact on ecosystems will be no worse than that of the land-use changes to which human civilization already subjects the natural world. The responsibility for translating these and other disruptions into economic costs falls to Integrated Assessment Models (IAMs). To create its "Social Cost of Carbon," the Obama administration surveyed this economic literature and focused specifically on three models whose forecasts themselves vary widely, even starting from a common level of warming. For warming of 3 to 4 degrees Celsius by 2100, the middle of the three models estimates an annual cost of 1% to 3% of GDP. The low case estimates 0 to 1%. The high case estimates 2% to 4%. While 4% is a large dollar amount, arriving at that impact over nearly 100 years implies almost imperceptibly small changes in economic growth. The specifics of this high-case model are informative: The Dynamic Integrated model of Climate and the Economy (known as the DICE model) developed by William Nordhaus at Yale University estimates 3.8 degrees Celsius of warming by 2100 costing an associated 3.9% of GDP in that year. But over time, this cost is the equivalent of slowing economic growth by less than one-tenth of one percentage point annually. By 2100, regardless of climate change, the world is more than six times wealthier than in 2015 under this model; global GDP is $500 trillion. The effect of climate change is to reduce that gain from a multiple of 6.7 to a multiple of 6.5. The economy also continues to grow, so that the climate-change-afflicted world of 2105 is already much wealthier than a world of 2100 facing no climate change at all. Such estimates might seem counterintuitively low, especially given the rhetoric often employed. Part of the explanation lies in the almost incomprehensible economic progress that human civilization is capable of making over the course of a century. The annual cost identified by Nordhaus in 2100 is $20 trillion — massive by the standards of 2015, manageable by the standards of 2100. Further, that cost repeats every year even as the impacts are spread over many years. Thus, over the 2090 to 2110 time period, Nordhaus envisions the world spending a stunning $350 trillion to cope with climate change. One might despair over what else such resources might accomplish over that time period. But one must also recognize that the economy of 2100 will likely be able to allocate those resources toward climate change while also allocating to every other facet of society far more resources than are available today. Corroborating these models, the IPCC concludes that "for most economic sectors, the impacts of drivers such as changes in population, age structure, income, technology, relative prices, lifestyle, regulation, and governance are projected to be large relative to the impacts of climate change." In other words, other worrying problems have a far greater capacity to influence progress. None of this means the dislocations from climate change would be painless or the disruptions cheap. It is merely to observe that the impacts expected from climate change over the next hundred years look similar to those through which both civilization and our planet have successfully muddled over the past hundred and continue to struggle with today. Other worrying problems have their own anticipated but less-severe analogs, too. Whether a global pandemic strikes, epidemics will inevitably occur like the 2014 Ebola outbreak in West Africa that claimed more than 10,000 lives and cost the three countries at its center more than a tenth of their GDP. Whether artificial intelligence makes humans superfluous, self-driving vehicles could throw millions out of work in the years to come. Some countries will default on their debt; some business cycles will spawn deep global recessions. These challenges are not existential threats or even ones that require analysis outside the standard policy process — that is, they are not really worrying problems at all. EXTREME CASES If expected climate change represents the most likely outcome, extreme climate change represents the worst case: Models could be underestimating the warming that emissions will cause; feedback loops could send a 3-degree increase suddenly careening higher; or even at the expected level the climate could hit a tripwire that collapses global ecosystems or ocean currents or ice sheets or some other prerequisite of modern civilization. Any of these things may be true — as is the nature of genuinely forecasted challenges, they are mostly non-falsifiable. But while extreme climate change is a quintessentially worrying problem, it is also one that has no guarantee or even likelihood of occurring. Certainly, the "scientific consensus" or even the "scientific mainstream" on climate change does not extend to confidence in such scenarios. To compare extreme climate change with other worrying problems, it is helpful to consider the dimensions that make a problem "worrying": that it is forecasted, irreversible, and pervasive. On all three, climate change appears less worrying than most. Consider, first, the magnitude of the forecasted impact. Many worrying problems feature the credible prospect of killing a significant share of the human population or erasing modern civilization. Not extreme climate change. For instance, even considering higher temperature increases, the IPCC concludes that: Global climate change risks are high to very high with global mean temperature increase of 4°C or more above preindustrial levels in all reasons for concern, and include severe and widespread impacts on unique and threatened systems, substantial species extinction, large risks to global and regional food security, and the combination of high temperature and humidity compromising normal human activities, including growing food or working outdoors in some areas for parts of the year. Obviously, each of those effects would entail enormous economic costs, carry severe consequences for entire nations, and wreak havoc with the natural environment. But as a worst case, it nevertheless pales in comparison to catastrophes that might kill a significant share of the human population or erase the basic physical and economic infrastructure of modern civilization. Serious efforts to quantify existential threats concur. A 2016 report by the Global Priorities Project at Oxford offered as its example of a worst case that climate change could "render most of the tropics substantially less habitable than at present," as compared to hundreds of millions or billions of deaths associated with other challenges. Another Oxford study from 2008 asked conference participants to estimate the probability of various global catastrophes leading to human extinction in the coming century, and did not even see fit to include climate change as an option, while respondents gave molecular nanotechnology, super-intelligent artificial intelligence, and an engineered pandemic each at least a 2% chance of erasing humanity by 2100. Some analysts nonetheless place climate change among humanity's genuinely existential threats on the basis of its "fat tail," arguing that some unknowable but non-zero chance exists at the far-right end of the probability distribution for an outcome with essentially infinite cost. But this is true of all worrying problems — indeed, the characteristics of worrying problems might be viewed as those that generate such unknowable non-zero probabilities. Climate change cannot be distinguished from other worrying problems on that basis. Rather, the argument begs the question: What characteristics of climate change make its tail relatively fatter or thinner? The weight accorded to a worrying problem's forecasted effects depends greatly on the number of causal steps between the underlying phenomena and worst-case outcomes. Where fewer steps are necessary, or where steps are relatively more likely to occur, the probability of the worst case arising should increase. For instance, whether an engineered pandemic devastates humanity depends on development of the necessary technology (highly likely), its use by a malicious actor (indeterminate), and its spread defying efforts at containment (indeterminate). Generally speaking, technological threats will have the shortest chains while sociological threats will have the longest ones. Climate change would appear to sit somewhere in between. It has a very short chain to some impact — indeed, higher atmospheric concentrations of carbon dioxide are already having effects. But the connection from warmer temperatures to civilizational catastrophe is highly attenuated. The initial warming must cross thresholds that produce feedback loops. The ensuing warmth must produce environmental effects that cause unprecedented crises across societies. Those crises must in turn overwhelm the coping capacity of the entire global community, which must in turn produce wide-scale breakdowns in social order or trigger military conflict, which must in turn metastasize into...what? Certainly, one can invent a scenario. But the specifics quickly become hazy, and a worst case entirely outside of human experience difficult to articulate.

# 2NC

## States

### 2NC---Solvency

#### And State’s solve better

Arteaga and Ludwig ‘21

(Juan A Arteaga is a partner in Crowell & Moring’s antitrust and white-collar groups. His practice focuses primarily on advising companies, boards of directors, and executives in a broad range of civil and criminal antitrust matters Jordan Ludwig is a counsel in the antitrust group in Crowell & Moring’s Los Angeles office, where he focuses on antitrust litigation, civil and criminal antitrust investigations, and appeals. “The Role of US State Antitrust Enforcement” 1/28/21. DOA: 9/3/21. https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement)

In 1976, Congress passed the Hart-Scott-Rodino Antitrust Improvement Act, which, among other things, authorised state attorneys general to bring parens patriae suits (i.e., legal actions brought on behalf of natural persons residing within their states) seeking monetary (treble damages) and injunctive relief for Sherman Act violations.[9] Congress also passed the Crime Control Act of 1976, which, among other things, provided state attorneys general with tens of millions in federal grants as ‘seed money’ for the creation of antitrust bureaus within their offices.[10] These laws had their intended effect of reinvigorating state antitrust enforcement. During the 1980s, for example, state attorneys general once again emerged as vigorous antitrust enforcers, especially with respect to the prosecution of resale price maintenance practices and other vertical restraints.[11] The rise in the level and prominence of state antitrust enforcement during this period was largely due to a perceived enforcement void at the federal level, where the DOJ and FTC had mostly limited their focus to ‘prohibiting cartels and large horizontal mergers’.[12] No longer content with ceding antitrust enforcement to federal enforcers, state attorneys general expanded their antitrust dockets from prosecuting purely ‘local matters, such as bid-rigging on state contracts’, to actively investigating and litigating matters with multistate and national implications.[13] To help ensure that they had a larger seat at the antitrust enforcement table, state attorneys general also increased the coordination of their enforcement efforts and competition advocacy through organisations such as the National Association of Attorneys General (NAAG), which created a Multistate Antitrust Task Force and issued state Vertical Restraints and Horizontal Merger Guidelines during this period.[14] Since the reawakening of state antitrust enforcement nearly 30 years ago, state attorneys general have continued to play an important role in the enforcement of both state and federal antitrust laws. During periods of lax federal antitrust enforcement, state attorneys general have often ramped up their enforcement activity in order to protect consumers from anticompetitive transactions and business practices.[15] During periods of vigorous federal antitrust enforcement, they have often served as strong partners for the DOJ and FTC by, among other things, offering valuable insights about competitive dynamics in local markets, assisting with obtaining information from key market participants (including state governmental entities that are direct purchasers of goods and services), and helping develop and implement litigation strategies for cases being tried before federal judges presiding in their states.[16] Since January 2017, state attorneys general have increasingly played a leading and independent antitrust enforcement role. State antitrust enforcers have significantly increased their enforcement activity and willingness to act separately from their federal counterparts because many of them believe that there has been ‘under-enforcement’ by the DOJ and FTC.[17] State antitrust enforcers have also been able to enhance their influence over key competition policy issues and the antitrust enforcement agenda within the United States because there appears to have been a significant decline in the coordination and relationship between the DOJ and FTC.

#### Radical state legislation solves better.

Lange et al. 21, \*Perry A., JD, antitrust lawyer, vice-chair of the ABA Antitrust Section’s Joint Conduct Committee. \*Brian K. Mahanna, JD, former chief of staff and deputy attorney general in the Office of the New York State Attorney General, \*Nicole Callan, JD, vice chair of the Civil Practice and Procedure Committee of the American Bar Association (ABA)'s Section of Antitrust Law, \*Álvaro Mateo Alonso, LLM, Law Degree, antitrust lawyer. (3-5-2021, "Developments in Antitrust Law: Keep an Eye on New York", *WilmerHale*, Full report accessible at: https://www.wilmerhale.com/en/insights/client-alerts/20210305-developments-in-antitrust-law-keep-an-eye-on-new-york)

Overview of New York Antitrust Legislation In January 2021, New York State Senator and Deputy Majority Leader Michael Gianaris (D-12th District) reintroduced the 21st Century Antitrust Act (S933), seeking changes to New York’s antitrust law that are more sweeping than those proposed in a version of the bill introduced in 2020. The revised legislation would: – Prohibit unilateral conduct that creates or maintains a monopoly—similar to Section 2 of the Sherman Act. – Create an unprecedented (in the United States) “abuse of dominance” offense, based on European law, and give the New York Attorney General rulemaking authority to carry out the provision. – Require merger notifications to the New York Attorney General at least 60 days prior to consummation for transactions that result in the acquirer holding more than $8 million in assets or voting securities of the target—the first state-level merger reporting requirement in the United States. – Authorize significantly higher fines for violations of the Donnelly Act. – Authorize parens patriae actions by the New York Attorney General on behalf of injured individuals and businesses for violations of the Donnelly Act, as well as private class actions. New York Attorney General Letitia James testified in support of the prior version of the bill in a hearing before the Senate Consumer Protection Committee, stating that “it will give New York’s antitrust laws the scope and the flexibility needed for effective antitrust enforcement in this era of increasing economic concentration.” In late January Assemblyman Ron Kim (D-40th District) proposed A3399, an equally extensive rewrite of the Donnelly Act.1 In addition to prohibiting abuse of dominance, the Assembly bill would bar mergers under language that parallels Section 7 of the federal Clayton Act2 and would impose on the merging parties the burden of showing that the procompetitive benefits of the transaction outweigh any anticompetitive effects. Analysis of Significant Proposed Changes – European-Inspired “Abuse of Dominance” Offense The Donnelly Act does not contain an analog to Section 2 of the Sherman Act, which prohibits single firm conduct that creates or maintains monopoly power. Senator Gianaris’ proposal would amend the statute with language that is similar to Section 2.3 However, the proposal would go substantially further than federal or any other U.S. state’s law in addressing single firm conduct; it would prohibit companies “with a dominant position in the conduct of any business, trade, [] commerce [or service]” from “abus[ing] that dominant position.”

### 2NC- AT: PDCP

#### Federal government is the legislative, executive and judicial

US Legal No Date (United States Federal Government Law and Legal Definition https://definitions.uslegal.com/u/united-states-federal-government/)

The United States Federal Government is established by the US Constitution. The Federal Government shares sovereignty over the United Sates with the individual governments of the States of US. The Federal government has three branches: i) the legislature, which is the US Congress, ii) Executive, comprised of the President and Vice president of the US and iii) Judiciary. The US Constitution prescribes a system of separation of powers and ‘checks and balances’ for the smooth functioning of all the three branches of the Federal Government. The US Constitution limits the powers of the Federal Government to the powers assigned to it; all powers not expressly assigned to the Federal Government are reserved to the States or to the people.2NC- AT: Capper Volstead

#### Capper Volstead is limited

**Their author** Frederick 89—(Attorney-Adviser, Cooperative Service Division, US Department of Agriculture). Donald A. Frederick. May 1989. “Managing Cooperative Antitrust Risk”. United States Department of Agriculture. Cooperative Information Report 38. <https://www.rd.usda.gov/files/cir38.pdf>.

The Capper-Volstead Act provides a limited antitrust exemption for agricultural marketing associations. CapperVolstead protection is available only to associations that (1) limit membership to bona fide agricultural producers, (2) either limit members to not more than one vote because of the amount of stock owned or limit dividends on membership capital to 8 percent per year, (3) do a majority of their marketing for association members, and (4) operate for the mutual benefit of their members as producers. Producers whose cooperative meets these requirements can agree on prices and terms of sale, select the extent of their joint marketing activity through their association, agree on common marketing practices with other cooperatives, and achieve substantial market share and influence. Because Capper-Volstead does not provide total antitrust exemption, cooperative managers, directors, and advisers must make decisions that sometimes expose the organization to antitrust risk. Risk is usually greatest when the decision involves business arrangements with persons and firms that are neither agricultural producers nor cooperative associations of producers. Business arrangements that pose special antitrust risk for cooperatives include agreements on prices and terms of V sale, undue price enhancements, reaching for substantial market share, merger and acquisition activity, customer selection, member selection, transportation, limitations on quantity of product handled, and predatory conduct.

### 2NC- States

#### No preemption

Brinkerhoff 17 (John C. Brinkerhoff Jr. received his J.D. from Yale Law School in 2018. Currently a lawyer in Alabama. , May 31 2017,Ropes of Sand: State Antitrust Statutes Bound by Their Original Scope, https://digitalcommons.law.yale.edu/yjreg/vol34/iss1/6/)

Federal law is of little assistance in this debate, as national antitrust laws do not preempt the antitrust efforts of states in any substantive way. Modem dormant Commerce Clause jurisprudence is equally unavailing. It will only invalidate nondiscriminatory state statutes if their burden on interstate commerce is "clearly excessive" in relation to their intrastate benefits. Consequently, court holdings that curtail state antitrust enforcement via the dormant Commerce Clause are extremely rare. When this highly deferential standard is compared to the diverse interstate constraints contemplated by state courts, the potentially massive effect of the current debate over these statutes' original scope is clear: a court's interpretation of the issue can effectively determine if a statute has no application in modem commerce or a very robust operation. Indeed, this debate is decisive as to where a state statute will fall between these two points.

### 2NC-AT: Modeling

#### States are perceived as representing the U.S. internationally

Robinson 7 – JD @ Yale (Nick, “Citizens Not Subjects: U.S. Foreign Relations Law and the Decentralization of Foreign Policy,” *Akron Law Review*, Lexis)//BB

State and local governments are arguably seen as representing the U.S. government abroad in a more official capacity than U.S. non-state actors. The governments of these localities are democratically elected and so it is more likely that they will be seen as acting on behalf of the American people. Additionally, the federal government generally has a greater ability to control the actions of these localities than non-state actors. Therefore, there is a greater chance that nonintervention by the federal government to stop offensive activity will be seen as federal endorsement of such activity. Such logic though should caution against court intervention in these cases rather than encourage it. If localities' actions damage U.S. foreign policy interests, the federal government can easily preempt the state or local policies in question. Further, with the world's increased interconnectedness, it is more likely that if a foreign government takes offense to a locality's policy it can discriminate between the policy of the locality and the policy of the federal government. n155

#### The counterplan creates internationally-perceived norms.

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States have also urged the United States to sign and ratify international agreements. For example, several state governments have passed resolutions in support of the Convention on the Elimination of Discrimination Against Women (CEDAW).324 Often state and local action arises out of dissatisfaction with the perceived inadequacy or incorrectness of a federal policy towards a foreign policy issue. Catherine Powell calls the impact of state and local laws on national foreign policy “dialogic federalism.”325 She argues that enough local ordinances can create a norm cascade that affects federal policy.326 The U.S. federal sanctions against South Africa passed by Congress over President Reagan’s veto in 1986 were arguably in part a result of just such a norm cascade created by anti-apartheid resolutions and laws at the state and local level.327 In many ways, it is the mobilization of citizens around, more than the passage of a resolution or act on a foreign policy issue that leads to a norm cascade which changes federal policy. The effort required to convince legislators and their fellow citizens to support a locality’s official action gives citizens a tangible and reachable local goal to focus their efforts on. This helps organize constituencies locally that can develop into a national coalition. For example, someone who has worked continuously to garner support for a local divestment initiative on Sudan is also more likely to call their Congressperson to urge them to pass the Darfur Accountability Act. Norm cascades created by localities’ actions do not only impact the policy they are directed at, but have a wider impact as well. For instance, the South Africa or Sudan divestment campaigns can be seen as national human rights moments. These are moments in which a segment of the American public becomes unusually organized to promote a human rights-based foreign policy goal. Most voters remain generally unaware of how U.S. foreign policy implicates human rights in other countries. Further, most voters do not base their vote on foreign policy human rights issues. The signal given by these human rights moments, however, creates an environment in which sympathetic legislators and policymakers can prioritize human rights concerns in other areas of foreign policy, knowing there is a constituency that generally supports this type of action.

## Adv 2

### 2NC- Nonsense

#### Internal link to this entire advantage is just a list of grievances rural people have. Economics, Immigration and offshoring loses, Demographics, Culture, polarization,

Kansas= Green Rodriguez-Posea 21—(Professors of Economic Geography at the London School of Economics). Andrés Rodríguez-Posea, Neil Lee, & Cornelius Lipp. August 11, 2021. “Golfing with Trump. Social capital, decline, inequality, and the rise of populism in the US”. Cambridge Journal of Regions, Economy and Society. Accessed 10/2/21.

We hypothesise that low social capital alone is unlikely to have triggered the swing of voters to Donald Trump and that interpersonal inequality at the local level is unrelated to increases in Trump’s vote share. We propose that it is precisely the long-term economic and demographic decline of the places that still rely on a relatively strong social capital that is behind the rise of populism in the US. Strong, but declining communities in parts of the American Rustbelt, the Great Plains, and elsewhere, reacted at the ballot box to being ignored, neglected and being left-behind. The results of the analysis show that increases in populist vote in the US are fundamentally driven by the economic and demographic decline of strongly cohesive midtown and rural America. These places still have greater levels of social capital than more dynamic and unequal areas of the US. This social capital has played a role in the swing of votes within communities driven by a growing feeling of frustration, increasingly known as the rising geography of discontent (McCann, 2020) or the politics of resentment (Cramer, 2016). In small cities and rural areas of the US, scattered predominantly across the Rustbelt and the Great Plains, the rise in populist vote represents a reaction of strong communities in which individual losses are identified with collective losses. These so-called ‘places that don’t matter’ (RodríguezPose, 2018) have had enough of seeing their people leave and their jobs go and have used the ballot box to exact revenge on a system they consider offers little to them. By contrast, the more dynamic, mainly urban, areas of the US, where society is often less cohesive, where there is less social capital and where interpersonal inequalities are significantly higher, have, for the moment, shunned the calls of populism. We argue that our results have implications beyond the United States. In particular, work across Europe, including studies considering Brexit (e.g., Carreras et al., 2019; Lee et al., 2018) and Euroscepticism more generally (Dijkstra et al., 2020), have highlighted the importance of long-term decline in explaining the growth in populism. Yet the focus has tended to be on income and industrial decline, rather than employment and population decline, as a cause. The decline of previously tight-knit communities has been underplayed in this literature, but our results provide an important justification to investigate whether they can be generalised outside the United States. The paper is structured as follows. The next section studies the rise of Trumpism in the US. This is followed by a section looking at explanations for the growth of the Trump vote, focusing, in particular, on social capital, interpersonal inequality, and long-term economic and demographic decline. The methods and data used in the analysis are presented in the ensuing section, which is followed by the econometric analysis. The main conclusions of the study are put forward in the final section. The rise of populism in the US On 8 November 2016, Donald Trump was elected president of the US. Trump, a businessman with limited previous political experience, managed against the odds first to secure the Republican Party nomination and then the presidency on a political platform with strong nationalist and authoritarian populist tendencies (Norris and Inglehart, 2019). Trump’s election was achieved on the wings of winning the electoral votes of crucial swing states, such as Pennsylvania, Ohio, Michigan and Wisconsin. In these states, like very much everywhere else in the US, the votes for the Democratic candidate, Hillary Clinton, were geographically concentrated in the larger cities. Clinton triumphed in cities like Philadelphia, Pittsburgh, Columbus, Cincinnati, Cleveland, Detroit, Milwaukee and Madison, and took some university towns in Ohio and Pennsylvania. The suburbs, towns and rural areas, by contrast, provided fundamental support for Donald Trump (Rodden, 2019). Figure 1 shows the Trump margin, the swing in the share of votes towards the Republican Party between the 2012 presidential election, when Mitt Romney was the Republican presidential candidate, and the 2016 election. The Trump margin is highest in most of the mid-Atlantic, Midwest, and Great Plains states. The greatest swing took place in an arch surrounding the Great Lakes, drawing a semicircle expanding from northern Maine in the East to north-eastern Minnesota in the West (Figure 1). The geography of the Trump margin changed relatively little in the 2020 election (Figure 2). Despite losing the election to Joe Biden, Donald Trump increased his margin relative to the votes obtained by Mitt Romney in 2012 across many rural and small-town counties where he had already prevailed four years earlier. He also managed to make forays into territories traditionally relatively hostile to the Republican Party, such as southern Texas and parts of New Mexico (Figure 1). However, the main geographical traits of the 2016 election remained untouched in November 2020. The Trump margin was, once again, highest in rural and small-town communities around the Great Lakes, the Midwest and the Great Plains. In contrast, Donald Trump attracted less votes along both coasts and in large urban agglomerations everywhere in the US (Figure 1). Possible explanations for the rise of Populism Why did Donald Trump get elected in 2016? Why did he almost get re-elected in 2020? What are the reasons behind the rise of authoritarian populism in the US? The rise of Trumpism in the US has coincided with that of forms of authoritarian populism in other western democracies. Especially in the second half of the 2010s, researchers have tried to investigate the causes of populism from different perspectives. The main divide in the studies of populism has been between those focusing on cultural parameters versus those emphasising economic explanations. Those examining culture and values have centred their explanations around the role of values (Norris and Inglehart, 2019). Citizens embracing populism are those that feel ill at ease with what they increasingly regard as a different society from the one they grew up in or with the image of society transmitted to them by their parents and family. These citizens generally regard globalisation, migration and multiculturalism as key factors behind the rise of economic (but also cultural and identity) insecurities (Norris and Inglehart, 2019; Salmela and von Scheve, 2017). The change in cultural values threatens their identity and undermines family and religious traditions, transforming the environment they live in into one they no longer feel comfortable with (Norris and Inglehart, 2019). Gradually, this insecurity has morphed into anger and resentment towards a system that, in their view, no longer values them (Salmela and von Scheve, 2017). Economic explanations revolve around the economic insecurity brewed by deregulation and globalisation (Guiso et al., 2017). Factors such as the openness to trade and the exposure to Chinese goods (Autor et al., 2013, 2016; Colantone and Stanig, 2018) rank high in this strand of research. Recent economic transformations are exploited by populists, invoking protectionism while stoking economic nationalism, such as in Donald Trump’s ‘Make America great again’ 2016 campaign slogan. Post-financial crisis austerity has also been considered a driver of discontent (Gray and Barford, 2018). Cultural and economic transformations are causing rising resentment with a system, which is increasingly reflected in the electoral ballot. Voters supporting populist options are both swayed by their individual characteristics, such as age, race, education, exposure to new technologies, health, work status or welfare dependency, as well as by the conditions of the places where they live (Alabrese et al., 2019). At the intersection between culture and economics, two factors were signalled by Putnam as the main risks for American democracy. Social capital, as ‘the performance of […] democratic institutions depends in measurable ways upon social capital’ (Putnam, 2000: 349), and interpersonal inequality and the increasing polarisation of American society. Putnam argued these trends went hand in hand and reinforced one another (Putnam, 2000: 359): ‘the last third of the twentieth century was a time of growing inequality and eroding social capital. By the end of the twentieth century, the gap between rich and poor in the United States had been increasing for nearly three decades, the longest sustained increase in inequality in at least a century, coupled with the first sustained decline in social capital’. In the next subsections, we look at the potential role of both factors in the rise of populism, as well as that of long-term economic and demographic decline as a possible alternative. Social capital as a driver of populism Social capital has become one of the dominant concepts in the social sciences. The concept draws on a longstanding body of research, which suggests that social networks matter for all sorts of social and economic outcomes. Coleman (1988) defined social capital as a resource considering (a) obligations and expectations, (b) information channels and (c) social norms. These three aspects of social relationships reduce the coordination costs of shared action and improve outcomes, moving away from a static view of social relations and economic activity as being about individualised actors, towards a view that economic activities are relational rather than simply transactional (Rodríguez-Pose and Storper, 2006). Putnam took on this concept and defined it as ‘the features of social life— networks, norms and trust—that enable participants to act together more effectively to pursue shared objectives’ (Putnam, 1995: 664). Most views of social capital consider it a force for good. In his work on the strength of weak ties, Granovetter (1973) showed the importance of social relations in enhancing economic outcomes, while Putnam (2000: 394) indicated that social capital ‘strengthens our better, more expansive selves’. Hence, the long-term decline of social capital in the US posed a serious threat to American society and its democracy, as it pushes citizens to free-ride ‘by neglecting the myriad civic duties that allow […] democracy to work’ (Putnam, 2000: 349). However, there are also longstanding concerns that it can have negative consequences. Olson (1965) viewed associational behaviour as lapsing into special interest groups. Overall, closed networks may enable the development of social capital, but they can also allow the development of group-think and incentives to engage in factional behaviour rather than in the general interest (Rodríguez-Pose and Storper, 2006) and prevent the progress of new ideas and social change (Coleman, 1988). In short, a tight-knit community can entrench the ‘forces of tradition’ and restrict social change (Farole et al., 2011: 68). In terms of how social capital can affect voting behaviour, social capital is often seen as a pillar of a functioning democracy, something which goes back to Alexander de Tocqueville and his argument that civic association underpinned the US democratic model. Similarly, Putnam (1993) argues that the lack of adequate social capital in southern Italy undermined democracy and legitimate political representation. His arguments for the US are that declining social capital not only depresses civic engagement and political participation but that it also destroys connectedness and trust. The increasingly empty public forums that became the norm in the last third of the 20th century represented a threat to American democracy (Putnam, 2000: 412). In this respect, social capital can be considered as a form of protection against populism or demagoguery. Pre-dating the post-crisis resurgence of populism, Fieschi and Haywood (2004) indicated that a lack of trust in political institutions could fuel populism. Both Putnam (1993; 2000) and Fieschi and Haywood (2004) viewed social capital as essential for a healthy democracy and having a purely negative impact on populism (i.e., where there is greater trust, political relationships are healthier and more mutually respectful, and so populists are less able to blame elites). But this positive view of social capital has, more recently, also been challenged. Satyanath et al. (2017), for example, showed that German states with higher levels of social capital, proxied by associational behaviour, facilitated a rapid expansion of Nazi ideas and, in turn, Hitler’s accession to the Chancellery through higher shares of votes for the Nazi party. The presence of large and dense networks involving high levels of trust expedited a swift flow of information and a more rapid exposure to Nazi party propaganda. Interpersonal inequality and populism Putnam (2000) saw rising interpersonal inequality as the other main risk for American democracy. For him, the increase in interpersonal inequality and the decline of social capital were two sides of the same coin. On the one hand, the rise in inequality of the last third of the 20th century (Katz and Murphy, 1992) disrupted participation and reduced civic engagement. On the other, the decline in social capital accelerated the disintegration of American communities and eased the implementation of policies and the passing of legislation that fermented greater inequality. This process also had a geographical component as ‘the American states with the highest levels of social capital are precisely the states most characterised by economic and civic equality’ (Putnam, 2000: 359). This view of interpersonal inequality as a threat to democracy and, therefore, a driver of populism has been shared by many economists who have examined the roots of the recent rise of authoritarian populism in developed countries. The rise in wealth polarisation in American society, as well as elsewhere in the developed world, is a fundamental factor for the increasing support of extreme antisystem options at the ballot box. Economic transformations in recent decades, and, above all, globalisation and automation, have driven ‘multiple, partially overlapping wedges in society’ (Rodrik, 2018: 23). One of these wedges concerns income and wages. The economic system has been leaving increasing shares of the population behind, in conditions that are financially insecure (Eichengreen, 2018; Guiso et al., 2017). The concentration of wealth in a dwindling number of hands (Milanovic, 2016; Piketty and Saez, 2014)—the top 1% (Dorling, 2019)—and the parallel rise in the people at risk of poverty in developed countries (O’Connor, 2017; Rodrik, 2018) is considered tainted with a stigma of unfairness (Rodrik, 2018: 23). Citizens have come to believe that the growing wealth of the elites has been earned unfairly and, consequently, the tolerance towards inequality has decreased (Pastor and Veronesi, 2018). Hence, interpersonal inequality, often confounded with economic unfairness (Starmans et al., 2017), is, from this perspective, pushing voters towards illiberal and anti-system parties at the ballot box. Inequality is perceived to drive a reaction against the status quo, resulting in an erosion of democratic institutions and leading to nativism and plutocracy (Milanovic, 2016). For Putnam (2000: 359) ‘there is every reason to think that the twin master trends of our time—less equality, less engagement—reinforce one another’. Thus, fighting the decline of social capital is also a way to prevent the rise of inequality and vice versa. It is also the best way to combat the challenges besieging American democracy. The role of long-term economic decline Putnam’s work is about all sorts of decline. From that in civic engagement or in political participation to declines in bowling or card playing. All these declines are meticulously documented in Bowling alone. Yet, there is one type of decline that is conspicuously absent from Putnam’s (2000) analysis: that of smalltown and rural America. Similarly, the growth of territorial inequalities and the rising geographical polarisation in the US does not feature prominently in Putnam’s work. However, the demographic and economic decline of small-town and rural America has been documented for quite some time (e.g., Fuguitt et al., 1989; Johnson, 2006). Small towns and large swaths of rural areas have been losing population and jobs throughout the second half of the 20th and the beginning of the 21st century. The decline of these areas has been matched by the evolution of many large cities, such as Detroit, Cleveland, Buffalo, Milwaukee or Toledo, once among the most dynamic industrial hubs in the US (Hartt, 2018). Many of these cities articulated, and still articulate, large hinterlands in ‘Rustbelt’ states. Such decline has had important implications for social capital. According to Putnam (2000: 207), ‘the decline in social connectedness over the last third of the twentieth century might be attributable to the continuing eclipse of smalltown America’. This is because small-town and rural America have for long been the centres of civic engagement. In these areas, people have been and remain community-oriented (Wuthnow, 2019: 4). During most of America’s history this feeling of community, widespread across the whole of the US, was regarded as a force for good. ‘Residents of small towns and rural areas are more altruistic, honest and trusting than other Americans’, noted Putnam (2000: 205). They are viewed as deeply proud, caring about their communities and wanting the best for them (Wuthnow, 2019). Communities with a better endowment of social capital have been perceived as better able to cope with all sorts of economic and social challenges (Rupasingha et al., 2006). However, when these communities suffer long-term population and economic decline and when the way of life that created and sustained the feeling of community ebbs away (Rodríguez-Pose, 2018; Wuthnow, 2019),2 the very social capital behind the cohesiveness and former dynamism of these areas can also channel the growing anger and resentment felt by those being left behind. When the feeling of neglect becomes widespread, when there is growing resentment about the rising economic gulf between large cities and small communities (Cramer, 2016: 83), social capital at a local scale can become the mechanism to diffuse that anger and outrage at a system they feel no longer represents and serves them. Areas with a strong social capital develop a consciousness that helps shape their political views (Cramer, 2016) and this consciousness is inherently related to place. Locals concerned about the many problems afflicting their communities, from population loss, brain drain and ageing to social disintegration and increasing drug addiction, feel that their plights are ignored by the federal government (Wuthnow, 2019) and can react collectively at the ballot box. In this respect ‘place matters because it functions as a lens through which people interpret politics’ (Cramer, 2016: 12). This consciousness is both rooted in place and class, but also ‘infused with a sense of distributive injustice’ (Cramer, 2016: 12). And it may also be the mechanism that feeds the increasing call for attention of places that have seen far better times, have been devastated by economic processes such as globalisation or automation and where people are becoming effectively stuck because of lack of capacity and/or opportunities for mobility (Rodríguez-Pose, 2018: 202). These processes have contributed to render their economies redundant and, often, undermine the self-esteem and sense of purpose of many local dwellers. Such consciousness is contributing to spread out a geography of discontent (Dijkstra et al., 2020; McCann, 2020) and a politics of resentment (Cramer, 2016) to areas that have had a rough ride linked to both economic and cultural transformations and have seen their friends and neighbours leave, their jobs dwindle, and their services gradually disappear (Collantes and Pinilla, 2019; Guilluy, 2019). Social capital can, in this respect, provide the vehicle for this anger to come out into the open at the ballot box (Rodríguez-Pose, 2018) or, increasingly, through rebellion and revolt (Guilluy, 2019). Bringing together social capital, inequality, and demographic and economic decline What can be expected from the combination of dwindling social capital, rising inequality, and the demographic and economic decline of many cities, small towns, and rural areas in the US? Depending on the perspective adopted, two potential outcomes can emerge. On the one hand, as posited by Putnam (2000), the threats posed by populist tendencies to American democracy could be addressed by redressing the decline of social capital and the increase in inequality. Anger at the system would, therefore, be more prevalent in those places where there is a combination of high inequality and low social capital. That is, predominantly, in large American cities. In these places ‘efforts to strengthen social capital should go hand in hand with efforts to increase equality’ (Putnam, 2000: 359). On the other, remnants of strong social capital that foster a pervasive consciousness within declining cities, especially in small towns and rural areas across the US, could have served as a means to channel the growing anger of long-term decline to the ballot box in numbers and ways that would be impossible in places with lower social capital stock. The evidence of the 2016 and 2020 presidential elections points to the latter explanation. The demographically and economically more dynamic, mainly urban areas in the US, where society is less cohesive, but where interpersonal inequalities are significantly higher, shunned the calls of populism and voted in large numbers for the Democratic candidates. By contrast, many long-term declining communities with strong social capital embraced Donald Trump in far greater numbers than they had supported Mitt Romney, a far more mainstream Republican presidential candidate, in 2012. Hence, in this paper, we will argue that the rise of populism in the US, as proxied by the swing to Donald Trump, is not related, as feared by Putnam (2000), to low levels of social capital, high interpersonal inequality, or their combination, but mainly to long-term economic and demographic decline. We will also argue that strong social capital, civic engagement and cohesiveness may have contributed to the revenge at the ballot box of places left behind (Wuthnow, 2019) that have felt neglected and snubbed for a considerable amount of time (Cramer, 2016; McCann, 2020). Their strong social identity and local consciousness—in other words, their social capital—may have expedited the rise of Trumpism in ways that would have been impossible in the most dynamic US cities and towns. This form of American populism will thus be mainly driven by the long-term economic and demographic decline of the strong communities that built America, while the rise of interpersonal inequality, something that could generate future conflict, is, for the moment, not associated with populism. Model and data Model In order to demonstrate that: (a) Economic and demographic decline are fundamental factors in the rise of the Trump vote and that this process has become exacerbated in the tightly-knit communities with strong social capital that have witnessed an erosion of their relevance; (b) This process is not limited to the aftermath of the crisis, but goes back a long way, with roots that can be traced to, at least, the 1970s; and (c) Trumpism is more connected with long-term decline than with local interpersonal inequality, which tends to be far higher outside those tightly-knit communities; we will analyse the swing of votes to the Republican Party between the 2012, on the one hand, and the 2016 and 2020 presidential elections—the Trump margin—on the other and regress it on the three factors that might have driven the surge in vote for Trump: social capital, interpersonal inequality, and economic and demographic decline. In view of the theoretical framework developed above, we will also look at the interactions between those factors, as the Trump vote could have increased in a) those places having suffered a long-term decline that are more unequal; in b) places with high social capital that are more unequal; and c) in places having suffered a long-term decline, with a strong level of social capital. The model adopts the following form: TMc,20xx−2012 = α + β1 Income pcc,2016 + β2 Inequalityc,2016 +β3 Social Capitalc,2016 + β4 Economic & Demographic Changec,2016−t + γ1X¯c,t + νs + εc where, TMc, 20xx−2012 represents the Trump margin, that is the change in the share of the vote between Donald Trump in 2016 or 2020 and Mitt Romney in 2012; Income pcc,2016 denotes the income per capita in a county in 2016; Inequalityc,2016 is a measure of income inequality within a county in 2016; Social Capitalc,2016 depicts the level of social capital in a county in 2016; Economic & Demographic Changec,2016−t indicates changes in employment, population, average earnings, and average wages in a given county between 2016 and any year marking the start of a decade, going back to 1970; X¯c,t is a vector of other variables that could have affected a shift in the vote for Donald Trump. These include variables that have been identified in the scholarly literature as factors behind the rise in Trump and/or populist vote, including population density, levels of unemployment, education, the racial composition, the sex ratio, the age structure, the share of married adults, or the local impact of imports from China at the county level; finally, νsis a state − level f ixed − ef fect, while εc denotes the error term. Data Geographical units The analysis is conducted at county level. This approach allows us to investigate very long-term impacts on local areas in a consistent way. However, one critique of using counties as our unit of analysis is the ecological fallacy, as we are generalising from the individual to the county level. This is unlikely to be a major problem here, however, as studies show that local context is an important determinant of individual attitudes (e.g., Reeves and Gimpel, 2012).3 As the data are drawn from multiple sources and cover the last five decades, there was a need for some matching to reflect changes in county boundaries over the period of analysis. The data have, therefore, been levelled at the county geographical division used by the Bureau of Economic Analysis (BEA) in 2017. As county boundaries underwent extensive changes, particularly in the state of Virginia, some modifications have been included. In the case of Virginia 51 counties in the state have been assembled into 23 ‘county compounds’, or county-equivalents. Alaska, which also underwent considerable modification in local boundaries, is excluded from the analysis. In the rest of the US, county adjustments are either inexistent or very minor. 3067 of the 3143 county or county-equivalents across the US are included in the analysis.4 Dependent variable and independent variables of interest The dependent variable in our model is the ‘Trump Margin’ (Figure 1), which represents the difference in the share of voter support for Donald Trump in the 2016 or 2020 presidential election relative to that of the previous Republican candidate, Mitt Romney, in 2012. It uses data drawn from the MIT Election Data and Science Lab for 2012 and 2016 and from McGovern et al (2020) for 2020. Following Goetz et al. (2019) and Agnew and Shin (2019), we use the difference in share instead of Trump’s overall share of votes, as we deem that this margin better signifies the increase in populist vote between both elections.5 The three main independent variables of interest depict (following the theoretical discussion above) social capital, interpersonal inequality and economic and demographic decline. The measure for social capital is based on an update by researchers at Penn State for the year 2014 of Rupasingha’s et al. (2006) index. Rupasingha et al. (2006) created—inspired by Putnam’s (1993, 2000) concept of civic engagement and using principal component analysis—a social capital index at county level for the US including four key components. These were: a) the number of non-profit organisations in a county, excluding those with an international approach; b) the census response rates in 2010; c) voter turnout in the 2012 presidential election and d) a number of associational indicators, including bowling centres, business, civic and social associations, golf courses and country clubs, labour, professional, religious and political organisations, fitness and recreational sports centres and sports teams and clubs, with all these factors aggregated and divided by population. The four factors included in the index were standardised. The first principal component is considered as the index of social capital. Mapping this index at county level provides a very uneven geography of social capital across the US. The highest levels of social capital were concentrated around the Midwest and, especially, the Great Plains states. Both Dakotas, Iowa, Kansas, Minnesota, Montana, Nebraska and Wyoming boasted the highest level of social capital. Social capital was also high in the northwest (Oregon and Washington state) as well as in some areas around the Great Lakes, such as Wisconsin, rural Illinois, Ohio, eastern Pennsylvania and parts of New England. Social capital was, by contrast, significantly weaker in the South, particularly in Kentucky and Tennessee, and in some Mountain states, such as Arizona, Nevada and Utah (Figure 3). The second independent variable of interest, Interpersonal inequality, is based on data drawn from the 2013–2017 5-year American Community Survey (ACS). At the core of the analysis is the 2016 county-level Gini index of incomes in a county. Two alternative measures are considered for robustness. These are the share of the population in the county in the top income quintile and that in the top 5% of income. Income inequality in the US is highest in the Deep South, particularly in states such as Alabama, Arkansas, Louisiana, Mississippi, South Carolina and eastern Kentucky, as well as in the largest urban agglomerations, such as New York City, Los Angeles, Chicago, Houston, Miami, Detroit and the Bay Area (Figure 4). The lowest differences in income inequality are found in Midwestern states, and mainly in small-town and rural communities in Illinois, Indiana, Iowa, Missouri, Ohio and Wisconsin, as well as in some parts of the Mountain states such as Nevada, Utah or Wyoming (Figure 4). The third and final independent variable of interest is Economic and demographic decline. In the econometric analysis, we use four different proxies: three for economic change (employment change, change in average earnings per job, and change in average wages and salary) and population change as a proxy for demographic change. The benchmark measure of change at the county level is employment change between 1980 and 2016. However, in successive parts of the analysis all four economic and demographic change indicators are considered, covering, by decade, the period between 1970 and 2016. The data for 2016 are drawn from the 2013–2017 5-year ACS. For earlier years, we resort to Bureau of Economic Analysis data. To ensure a normal distribution of residuals, all change variables are transformed logarithmically. Figure 5 provides an indication of economic change across counties in the US. It represents changes in employment between 1980 and 2016. As expected, the biggest growth in employment over that period of 36 years took place along the Pacific coast, in the north-east urban corridor, and in southern Florida. The lowest levels of employment growth occurred in the Great Plains states, along a strip running from East Texas in the south to North Dakota in the north (Figure 4). Many areas south of the Great Lakes and in the South have also performed relatively badly in employment terms. However, all is not gloom around the Great Lakes, as the area between Chicago and Milwaukee witnessed considerable growth in employment, as did most of the counties on the shores of Lake Erie. Control variables In addition, several control variables, representative of factors that have been associated with the rise of populism in the US and elsewhere, are included in the analysis. First, we consider income per capita in 2016, as variations in the territorial levels of wealth have been related to populist vote. Population density has been highlighted by certain authors (e.g., Rodden, 2019) as a driver of populism. Traditional parties, and mainly those of the left, are increasingly struggling in suburbs and rural areas of the US (Rodden, 2019). Population density at the county level is represented by its value in 2016. Unemployment is frequently regarded as another determinant linked to the rise of discontent and populism (Algan et al., 2017; Guriev, 2018). We control for the unemployment rate at the county level in 2016. Education is also a prominent factor behind the rise in antisystem voting. Low levels of education have been seen to be crucial for Brexit, the election of Donald Trump and the rise of populist alternatives elsewhere (e.g., Essletzbichler et al., 2018; Goodwin and Heath, 2016; Sides et al., 2017). We, therefore, use an indicator of the percentage of adults with higher education in each county in 2016. The racial dimension has been recurrent in the analysis of the outcome of the 2016 US presidential elections, with some accounts highlighting that the role of race and racial attitudes may be more important than economic factors (e.g., Morgan and Lee, 2018; Reny et al., 2019; Sides et al., 2017). We control for the share of black population in 2016 in US counties and, in alternative specifications, for the share of whites in that year. Demographic variables have also featured prominently (e.g., Goodwin and Heath, 2016). We include three such variables: the sex ratio of the population, the young-age dependency ratio and the share of married adults. Finally, the ‘China shock’ is often signalled as a trigger of discontent at the ballot box (Autor et al., 2016). We, therefore, include a measure of imports from China at county level. A list of the variables in the analysis, together with their definitions and sources, is included in Supplementary Table A1 in the Supplementary Appendix. Descriptive analysis What is the connection between the dependent variable (the Trump margin) and the independent variables of interest? Plotting the correlation between the Trump margin in the 2016 and 2020 US presidential elections and the three independent variables of interest reveals that the correlation between social capital, inequality and employment change since 1980, on the one hand, and the Trump margin, on the other, is, at best, tenuous. The strongest correlation is between employment change and the swing in votes towards Donald Trump. Counties with a greater decline in employment over the period of analysis supported Donald Trump in far greater shares than they supported Mitt Romney in 2012. The link between interpersonal inequality and the increase in the Republican vote is inexistent, while places with a higher social capital 2014 showed marginally higher shifts in votes towards Donald Trump (Figure 6). The correlations among the independent variables of interest are similarly weak. There is no link between inequality and changes in employment, while counties with higher levels of social capital have, on average, slightly lower interpersonal inequality and witness marginally lower employment growth since 1980 (Figure 7). The link between county size and any of the correlations is highly imperfect, although larger counties are somewhat more unequal, have lower social capital, and experience, with notable exceptions, greater employment growth (Figure 7). Econometric analysis Basic model The question is whether these relationships stand when all these factors are included together with additional controls in a regression analysis. The results of regressing model (1), using simple ordinary least squares (OLS) and including state fixed-effects, are presented in Table 1. Regressions 1 through 5 report the estimation for the 2016 election, while Regression 6 does it for the 2020 election. We run both elections separately as the conditions of both elections were very different: in 2016 Trump voters were electing an outsider with a limited track record in politics, while in 2020 they were voting for an incumbent president. The results highlight that, once the income per capita of the different counties in the US and the conditions of their state are controlled for, interpersonal inequality, long-term employment change and differences in social capital across US counties are connected to a swing towards Donald Trump in the 2016 presidential election (Table 1, Regression 4). However, this connection is not always in the direction expected by Putnam (2000) in Bowling alone. The combination of social capital and lower inequality as a protector of American democracy is not discernible. While richer counties shifted towards Trump’s populist positions in lower numbers than poorer counties both in 2016 and 2020, more unequal areas of the country were less swayed by Trump’s brand of populism. By contrast, places with greater civic engagement and a stronger social capital opted in larger numbers for the more extreme option in 2016, although the connection is not significant in the 2020 election, once other control variables are included. Counties that have witnessed considerable destruction of employment since 1980 were also convinced to a greater extent by Trump’s discourse than areas that experienced greater job creation (Table 1). These results are robust to including the three independent variables of interest together in the regression (Table 1, Regression 4) and additional controls expected, according to the literature, to affect populist vote (Table 1, Regressions 5 and 6). They are also robust to clustering the standard errors at county level (Supplementary Table A2). The coefficient for inequality, which is significant and negative when all the controls regressed together in the 2016 election (Regression 5), becomes insignificant in the 2020 election (Regression 6). In 2016 citizens living in the more unequal counties of the US were far less inclined to swing towards Donald Trump, but this relationship became weaker four years later.6 The coefficients for the control variables are generally in line with expectations. More densely populated counties, counties with a higher share of university graduates, those with a higher share of black population, those less affected by imports from China, and those with a younger population swung less to Trump (Table 1). The unemployment rate yields insignificant coefficients in both elections, while the increase of support for Donald Trump is higher in places with a lower share of married adults.7 These results are robust to changing the share of black population in a county by that of whites (Supplementary Table A5), with counties with a greater share of white population swinging towards Donald Trump, and to changes in the measurement of inequality at the county level. Counties with a greater percentage of people in the top income quintile (Supplementary Table A6) and those with a higher proportion of individuals in the top 5% of the income distribution (Supplementary Table A6) had a lower Trump margin in 2016, but not in the 2020 elections. The introduction of interactions between the independent variables of interest barely alters the results emanating from the basic model. Changes in employment since 1980 and all the control variables, including income per capita at the county level, yield the same sign in the coefficients and similar levels of significance. Once again, counties that have seen a greater employment decline put more trust in Donald Trump than they did in Mitt Romney (Table 2). Social capital remains positive and significant, apart from Regression 2, where it becomes insignificant for the 2016 election, and insignificant in 2020. While inequality displays a negative coefficient that is significant for the 2016 election and in 2020, when the interaction between employment change and inequality is considered (Table 2). The significant interactions are those between employment change and interpersonal inequality in 2016 and 2020 and between employment change and social capital in 2020. In the case of the former, both coefficients are positive and significant, meaning that the swing to Donald Trump was more pronounced not only in poorer counties, in those with lower interpersonal inequalities, and those that had suffered a long-term employment decline, but also in counties where high levels of employment growth were matched by a high degree of interpersonal inequality (Table 2, Regressions 1 and 4). In the case of the latter, citizens living in counties with higher levels of social capital voted less for Trump in 2020, if employment had grown more than elsewhere in the previous 40 years (Table 2, Regression 6). Different types and time horizons of decline So far, we have concentrated just on one side of economic and demographic change: employment change since 1980. What happens if we consider different types of decline? In Table 3 we take into consideration, not just employment change, but also population change (Regressions 2 and 6), change in average earnings per job (Regressions 3 and 7), and in average wages and salaries (Regressions 4 and 8). The results indicate that long-term employment and population decline over a period of almost 40 years has been strongly connected with a swing to Donald Trump at the ballot box in both 2016 and 2020 (Table 3, Regressions 1, 2, 5 and 6). Declines in average earnings and in wages and salaries are, in contrast, disconnected from the Trump margin in 2016. By contrast, counties that increase their average earnings per job and average wages and salaries, once other factors are controlled for, swung more towards Trump in 2020. In these counties presence of strong social capital was also linked to a higher Trump margin (Table 3, Regressions 7 and 8). These results chime well with the literature highlighting that the rise of populism in the US has more to do with racial issues than individual economic factors (Norris and Inglehart, 2019; Reny et al., 2019) and with a sense of alienation of the white working classes (Cramer, 2016; Morgan and Lee, 2018; Walley, 2017), what Kimmel (2017) calls ‘angry white men’. However, they also powerfully relate to the literature that has focused on geographical dimensions and, in particular, with long-term economic decline, mostly in Europe (e.g., Guilluy, 2019; Rodríguez-Pose, 2018) but, increasingly, in the US (e.g., Wuthnow, 2019). However, in contrast to the findings for Europe, where the rise of anti-system voting at the ballot box has been linked to economic and industrial decline, but not to employment and demographic decay (Dijkstra et al., 2020), in the US it is the slow demise of still strong communities that have been losing employment and population for some time that triggers the reaction at the ballot box to a far greater extent than declines in earnings and salaries. Once we have established that long-term unemployment and demographic decline have a powerful connection to Trump’s vote margin, the question is whether this association waxes or wanes with time. Table 4 looks at the change in these relationships over time, including the link with changes in average earnings and wages and salaries, since 1970 in ten-year intervals. This implies that the regressions are the same as in Table 3, only substituting the time covered in each of the economic and demographic decline variables. Only the coefficients for these variables are reported, as there are no significant changes in the other coefficients. The coefficients displayed in Table 4 show that the link between employment and population decline at the county level and Trump’s vote margin is not a recent phenomenon. The coefficients for employment and population change are always negative and highly significant, regardless of the period and election considered. Counties that have been shedding employment and losing population since the 1970s have been more inclined to support Donald Trump than they did Mitt Romney in 2012. Having said that, the dimension of the negative coefficients is generally larger for the more recent periods than for longer time spans. The 2008 Great Recession has provided a springboard for the rise of populist discourse and a populist candidate, but the seed of discontent was planted, as indicated by Cramer (2016), quite some time earlier. Table 4 once again points to the fact that this reaction at the ballot box is more about the long-term decline of communities shedding jobs and people than about the loss of earnings, wages, and salaries. The coefficients for the change in average earnings per job are mostly insignificant. However, it is often the case that counties witnessing a higher increase in wages and salaries swung more towards Donald Trump, particularly in the 2020 election. Hence, ‘it is not the very poor that are threatening the political system but the large numbers of still relatively well-off people—often seen as the threatened middle classes—still living relatively comfortable lives but in declining places’ (Rodríguez-Pose, 2020: 1–2). Conclusions Two decades ago, Putnam (2000) warned that American democracy was at risk from the twin challenges of the decline in civic engagement and social capital on the one hand, and the rise in interpersonal inequality on the other. More Americans bowling alone and engaging to a far lesser extent than before in local communities and an increasingly divided society from an economic perspective represented a twin threat to the democratic institutions that had been built since independence. Sixteen years later his forecast materialised with the election of Donald Trump, an outsider and political novice with strong populist tendencies, who first stunned the Republican Party elite by securing its presidential nomination, and then went on to beat the Democratic party candidate, Hillary Clinton, in the November 2016 election. Yet, the election of a candidate that, by shaking the system, has stretched American democracy to the limit, may have had little to do with declining social capital and rising interpersonal inequality and much more with the long-term employment and population decline of many formerly prosperous American communities. These communities are precisely those where social capital—the very form of capital that, according to Putnam (2000), was supposed to provide the glue for America’s democratic institutions—has held stronger than elsewhere. This is what this paper has shown. By combining social capital with interpersonal inequality and long-term economic and demographic decline at county level in the US and linking it to the swing to Donald Trump at the ballot box in the 2016 and 2020 presidential elections, it has revealed that the rise in discontent identified by some scholars (e.g., Cramer, 2016; Kimmel, 2017; Wuthnow, 2019) is at the root of the Trump electoral tsunami. However, this analysis has provided evidence for the deep geographical roots of this phenomenon. It is not just simply the white working class that is rebelling against the system. There are plenty of white working-class voters on the West Coast, along the eastern megalopolis or in American large cities, as well as in medium-sized cities, towns and rural areas that did not swing and/ or did not vote for Donald Trump. It is middleand working-class individuals, who live in communities that have seen better times and have for long experienced a slow, but relentless employment and population decline, and where social capital has remained relatively strong, that cast the decisive votes to put Donald Trump in office in 2016. The link between social capital and the Trump margin became weaker in the 2020 election when considering population and employment decline, but not when taking into account changes in earnings per job and in wages and salaries. Hence, social capital and local civic engagement may not have acted as the positive forces envisaged by Granovetter (1973) or Putnam (2000), but, in most cases, more in the negative way suggested by Satyanath et al. (2017), through mechanisms possibly linked to local consciousness and identity (Cramer, 2016). The long-term economic and demographic decline of many tightly-knit American communities has driven the rise of Trumpism. A decline that can be traced back to the last quarter of the 20th century and that has created a malaise that goes well beyond the crisis and that is increasingly manifesting itself at the ballot box. Declining, but still rather cohesive communities with strong social capital are the drivers of this process. In mostly small-town and rural areas of the US, the rise in the populist vote is a consequence of a reaction of communities in which individual losses are strongly identified with collective losses. And social capital may act as one of the transmission mechanisms. Individuals living in these communities know that a loss for one is a loss for all. Therefore, the rise of populism in the US is fundamentally linked to the geography of decline; to places that, despite remaining relatively homogeneous in terms of interpersonal inequality, have witnessed considerable employment and demographic decay over the long term. The Great Recession of 2008 may have ignited the fuse that resulted in the election of Donald Trump as president, but the discontent has roots that are far deeper.

### !D – Populism

#### Automation thumps US populism

**Mcfarland 16**. (Matt Mcfarland – tech reporter covering innovation and transportation, graduate of Dickinson College, where he studied psychology and political science. <KEN> "Trump's populism is only the beginning. Here come the robots.," CNNMoney. November 17, 2016. DOA: 9/30/18. https://money.cnn.com/2016/11/17/technology/trump-tech-populism-automation/index.html)

As pronounced as the trend already is, it's only just the beginning, experts say. Looming technological advances will wipe out more jobs, broadening the base of disenfranchised, unemployable and frustrated citizens. Meanwhile, elites with the skills to flourish in the digital economy will get richer. And governments will have to figure out how to help struggling citizens. Trump has suggested bringing back jobs to the U.S. from overseas. But even if these jobs return, they may soon vanish in a tide of automation. Manufacturing jobs aren't the only ones at risk. Pizza delivery guys, garbagemen, radiologists, retail workers, truck drivers, call-center workers and cab drivers are among the most obvious casualties. The World Economic Forum has estimated that five millions jobs will be lost by 2020. A 2013 Oxford study estimated that 47% of U.S. employment is at risk of being computerized. Economist Lawrence Summers, the former Treasury secretary, expects that more than one in three men in their prime working years will be out of work in 2050. trump tech populism robots The technology world is going through tremendous advances in artificial intelligence that are powering everything from self-driving cars to apps that help diagnose cancer. Many benefits await society. The change is so profound that some have started to call artificial intelligence the new electricity. But like all technologies, it's a double-edged sword, and a lot of people are about to get shocked. "It's going to get worse. The inequality will get worse. There's going to be more anger and social upheaval," said Martin Ford, author of Rise of the Robots: Technology and the Threat of a Jobless Future. "What we're seeing is in large measure because of technology." Related: Amazon only needs one minute of human labor to ship your next package Trump ran on issues of immigration and trade. Ford argues this is because it's easiest for people to point a finger at another person, be it a worker in China or an immigrant. The true culprit, as Ford sees it, is new technologies that have made it increasingly possible to automate traditional middle class jobs. The education required to hold down a middle class gig is increasing. There are new jobs, but most don't guarantee the lifestyle of yesteryear. Median American wages have been flat for decades, even as the country's economy grows -- concentrating wealth in fewer hands. "We talked 20, 25 years ago about the need for more than a high school education," said David Colburn, a history professor at the University of Florida. "Now we're talking about the need for more than a community college education. And in some cases, we're talking about a greater need than just a college education." We're already seeing signs of how unemployment could run rampant, triggering a broader populist backlash.

#### At best a retrenchment impact answered on the other paged

### 2NC- Iran and Noko

#### No Iran war.

Horowitz & Saunders 20, \*Professor of Political Science and Interim Director - Perry World House, University of Pennsylvania. \*\*Nonresident Senior Fellow, Foreign Policy, Project on International Order and Strategy, The Brookings Institution. (Michael C. and Elizabeth N., 1-10-2020, "War with Iran is still less likely than you think", *Brookings*, https://www.brookings.edu/blog/order-from-chaos/2020/01/10/war-with-iran-is-still-less-likely-than-you-think/)

In the wake of the U.S. attack that killed Maj. Gen. Qasem Soleimani, head of Iran’s Quds Force, many are concerned yet again about the potential for escalation between the United States and Iran to a general war. In June, after tensions spiked following attacks on two oil tankers in the Gulf of Oman that the United States blamed on Iran, we laid out the case for why the two countries were unlikely to fight a general war. We drew on similar arguments in 2018, when we explained why war between the United States and North Korea was unlikely despite the fears of many analysts at the time. THE KILLING OF SOLEIMANI WAS DIFFERENT The U.S. killing of Soleimani, an attack on a high-ranking government official, is different from previous moments of international tension during the Trump administration. Soleimani was an important military officer in a sovereign state, rather than the leader of a stateless terrorist organization, like Islamic State leader Abu Bakr al-Baghdadi. In last summer’s oil tanker and drone-downing episodes, the stakes were lower, and there were elements of deniability or ambiguity that were not feasible in the case of killing Soleimani. The direct strike on one of Iran’s top military leaders has led many to conclude that Iran will strike back, possibly against U.S. targets in the Middle East. Such retaliation would be potentially costly, even if it does not lead to a general war. But as other analysts have noted, fears of World War III are overblown. Even after this escalatory move, many factors that made war between the United States and Iran unlikely in June remain unchanged. There will no doubt be consequences — but general war remains unlikely. BUT COULD THE UNITED STATES AND IRAN STUMBLE INTO WAR? Although the killing of Soleimani was a deliberate act by the United States, much fear about escalation between the United States and Iran surrounds the potential for a conflict spiral through miscalculation. Fortunately, this type of escalation is rare. As Dan Reiter explained here at The Monkey Cage during a spike in tensions with North Korea two years ago, “powder kegs” rarely explode into war by accident. Those worried about accidental war may also point to reports that the Trump administration developed the plan to kill Soleimani in haste, suggesting there was insufficient effort to think about how Iran might respond. But if and when it does respond, Iran’s action is likely to be highly considered. This may be worrisome — but it’s not war by accident or miscalculation. If Iran’s leaders take an action in response that triggers a general war, it will probably be because they decided it was a risk worth taking. RETALIATION BY IRAN IS NOT THE SAME AS WAR It’s important not to move the goal posts for how we define war. At the same time, it’s also key to distinguish tit for tat between the United States and Iran from a general war involving ground troops. This is not to deny the risk of a damaging retaliatory move from Iran that may result in American casualties and lead to long-term complications for the United States in the region. But even retaliation may not come right away. Suzanne Maloney of the Brookings Institution argues that Iran is likely to “bide its time” despite anti-American protests in Iran during the widespread mourning for Soleimani. Domestic politics still act as a brake — in both the United States and Iran As Monkey Cage editor Michael Tesler wrote over the weekend, war with Iran is unpopular in the United States and is unlikely to help Trump win reelection. And Trump has long said he doesn’t want a Middle East war. Similarly, despite short-term domestic pressures to retaliate, Iran’s leaders want to stay in power and do not want to risk their regime in a costly war — and war between the United States and Iran would probably be very costly. SO HOW DID WE GET HERE, AND WHAT HAPPENS NEXT? Back in June, we wrote about one risk that could increase the odds of war: “if Trump’s hawkish advisers present an option that seems like it could be kept limited, but actually carries a strong likelihood of escalation.” According to news reports, Trump chose the option to kill Soleimani on short notice, surprising even some of his advisers and setting off a planning scramble. But we also noted that Trump has backed away from tough stances before. If the past is any guide, having now looked tough, Trump may seek an off-ramp. And as Sarah Croco, Jared McDonald and Candace Turitto have pointed out here at TMC, Trump is unlikely to be punished if he flip-flops and backs down. And even if Iran strikes back — as it says it will — it is also likely to try to avoid escalating the conflict significantly. Finding such a finely calibrated option is, of course, a difficult problem, but neither miscalculation nor domestic politics are the most likely drivers of further escalation in this case. What might prevent the two sides from finding the off-ramps? One factor is if the administration, with Mike Pompeo at the understaffed State Department leading the hawkish charge, does not fully consider diplomatic options or engage in a robust set of invisible, back-channel consultations that would produce such options. THE STAKES ARE HIGH Another concern is that this crisis has higher stakes for Iran than last summer’s tanker or drone encounters. We know that war can occur even if both sides don’t want it when one side doesn’t believe the other’s commitment not to attack in the future. If Iran doesn’t believe the United States will really leave its regime alone, it might frame the stakes of the Soleimani killing in the strongest possible terms, planning for significant escalation. But that seems unlikely, given that the United States is far more powerful than Iran and a general war would probably mean the end of Iran’s regime. And Iran’s leaders might alternatively believe Trump does not want a war, especially given his publicly stated interest in reducing the U.S. military’s footprint in the Middle East. Indeed, a challenge for Iran’s leaders is that they may agree with commentators who have noted that Trump has not made clear what he wants. Blowback may be coming, and the U.S. strike against Soleimani may increase the risk of bad outcomes short of an all-out war. Those are reasons for concern. But it’s critical to distinguish such consequences from a general war.

#### No Korea war---Nuclear deterrence.

Post 21, Commander, U.S. Navy, Ph.D. candidate studying international relations at Brown University. His research centers on nuclear deterrence strategy, policy, and the role of nuclear weapons in international relations, with a focus on the concept of limited nuclear war. He is currently serving in his 20th year of active duty naval service and is assigned to the Permanent Military Professor Program at the U.S. Naval War College in Newport, Rhode Island. (Daniel, 1-29-2021, "Deterring North Korea", *War on the Rocks*, <https://warontherocks.com/2021/01/deterring-north-korea/>)

Do These Principles Apply to North Korea?

With these principles in mind, can deterrence continue to work vis-a-vis North Korea? In short, yes. Throughout the evolution of the U.S-North Korean deterrence relationship, vulnerability has played an important role in the nuclear strategies and policies of both sides. The vulnerability of U.S. allies and assets in the region to North Korea’s intermediate-range missile and artillery barrages has almost certainly been a check on a more aggressive U.S. strategy, whether geared toward nonproliferation or regime change. It is certainly plausible that in the absence of this vulnerability the chances of the U.S. preventively attacking North during the Trump administration would have been higher, especially considering the extremely hawkish views of his national security adviser in 2017. As a result of this vulnerability, the U.S. routinely demonstrates its dedication to security agreements with allies in word and deed. Strategic bomber flights and military exercises, for example, demonstrate to North Korea their own vulnerability to U.S. and allied power in the region. Conversely, although the Kim regime would like nothing more than to unify the Korean Peninsula under North Korean leadership (dubbed the “holy grail of North Korean statecraft” in a recent report), it has refrained from overt and aggressive military action in pursuit of this goal. There is no doubt that Kim, like his predecessors, is wary of such behavior in the face of U.S. and allied military capabilities. Today, North Korea remains vulnerable to U.S. nuclear attacks, while the United States and its regional partners remain vulnerable to nuclear attack or retaliation from North Korea. This mutual vulnerability necessitates caution on both sides.

Recent progress in North Korean missile technology have made portions of the U.S. mainland vulnerable, giving the U.S. further reason to avoid unnecessary provocation. In 2017, North Korea conducted several tests of intercontinental ballistic missiles, two of which demonstrated the capability to potentially reach the continental United States. More recently, North Korea has successfully tested a submarine-launched ballistic missile and has showcased a new and larger submarine-launched ballistic missile at a recent parade. As a result, the United States continues to invest significantly in homeland missile defense, as well as to deploy missile defenses to defend allies and assets in the region. Missile defenses likely contribute to increased feelings of vulnerability among Kim’s regime, which may see the build-up as a prelude to a military offensive. Though imperfect, these attempts to reduce vulnerability enhance deterrence by potentially denying North Korea the expected military gains from a limited missile attack, even as fully effective missile defenses might contribute to strategic instability. Regardless of their effectiveness, Kim will have to factor in these defensive capabilities when assessing the success of engaging in conflict and will question the ability to achieve even limited goals through limited means. For example, in order to ensure the success of a missile attack, Kim would have to increase the size of the salvo in order to compensate for missiles likely to be shot down by U.S. and allied defenses. But knowing that a larger initial attack would be perceived as particularly aggressive and would likely invite a larger counter-attack, he might be deterred from pursuing whatever limited gains a smaller attack might have achieved. From Kim’s perspective, U.S. military capabilities are more than sufficient to make military success for North Korea in any conflict appear difficult and costly. Vulnerability to severe retaliation and punishment from U.S. strategic forces is also currently unavoidable for Kim. In fact, this very vulnerability has driven the North Korean nuclear program toward a capability to directly threaten the U.S., thereby demonstrating its own acknowledgement of vulnerability. In sum, both sides are vulnerable to each other. Most importantly for U.S. decision-makers, there is no likely development in the near to medium term that might remove this sense of vulnerability from Kim’s mind.

## Adv 1

### 2NC – !D – Heg

#### Empirics

**Fettweis 17.** Christopher J. Fettweis – Associate Professor of Political Science at Tulane University. “Unipolarity, Hegemony, and the New Peace,” Security Studies, Vol 26, No 3. https://www.tandfonline.com/doi/abs/10.1080/09636412.2017.1306394?journalCode=fsst20

Overall, if either version is correct and global stability is provided by US hegemony, then maintaining that stability through a grand strategy based on either primacy (to neoconservatives) or “deep engagement” (to liberals) is clearly a wise choice.75 If, however, US actions are only tangentially related to the outbreak of the New Peace, or if any of the other proposed explanations are decisive, then the United States can retrench without fear of negative consequences. The grand strategy of the United States is therefore crucial to beliefs in hegemonic stability. Although few observers would agree on the details, most would probably acknowledge that post-Cold War grand strategies of American presidents have differed in some important ways. The four administrations are reasonable representations of the four ideal types outlined by Barry R. Posen and Andrew L. Ross in 1996.76 Under George H. W. Bush, the United States followed the path of “selective engagement,” which is sometimes referred to as “balance-of-power realism”; Bill Clinton’s grand strategy looks a great deal like what Posen and Ross call “cooperative security,” and others call “liberal internationalism”; George W. Bush, especially in his first term, forged a strategy that was as close to “primacy” as any president is likely to get; and Barack Obama, despite some early flirtation with liberalism, has followed a restrained realist path, which Posen and Ross label “neo-isolationism” but its proponents refer to as “strategic restraint.” 77 In no case did the various anticipated disorders materialize. As Table 2 demonstrates, armed conflict levels fell steadily, irrespective of the grand strategic path Washington chose. Neither the primacy of George W. Bush nor the restraint of Barack Obama had much effect on the level of global violence. Despite continued warnings (and the high-profile mess in Syria), the world has not experienced an increase in violence while the United States chose uninvolvement. If the grand strategy of the United States is responsible for the New Peace, it is leaving no trace in the evidence. Perhaps we should not expect a correlation to show up in this kind of analysis. While US behavior might have varied in the margins during this period, nether its relative advantage over its nearest rivals nor its commitments waivered in any important way. However, it is surely worth noting that if trends opposite to those discussed in the previous two sections had unfolded, if other states had reacted differently to fluctuations in either US military spending or grand strategy, then surely hegemonic stability theorists would argue that their expectations had been fulfilled. Many liberals were on the lookout for chaos while George W. Bush was in the White House, just as neoconservatives have been quick to identify apparent worldwide catastrophe under President Obama.78 If increases in violence would have been evidence for the wisdom of hegemonic strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the relationship between US power and international stability suggests that the two are unrelated. The rest of the world appears quite capable and willing to operate effectively without the presence of a global policeman. Those who think otherwise have precious little empirical support upon which to build their case. Hegemonic stability is a belief, in other words, rather than an established fact, and as such deserves a different kind of examination.

## Adv 3

### 2NC AT: Advantage 3

#### Separate section of the same article, Argues the exemption is being chipped away now

Barnes 21—(\*JD from George Washington University; \*\*JD from Fordham University, former Vice-Chair of the ABA Antitrust Section’s Joint Conduct Committee). Donald M. Barnes & Jay L. Levine. April 2021. “Farmer Cooperatives "Take Cover": The Capper-Volstead Exemption is Under Siege”. Arkansas Law Review, Volume 74, Number 1. Accessed 10/2/21.

One of the principal challenges in advising farmers and their cooperatives, and in litigating the applicability of the Capper-Volstead exemption, is the paucity of case law interpreting the statute. Since its enactment in 1922, there have been less than 250 cases that involve the Capper-Volstead Act, while there have been tens of thousands of cases dealing with the Sherman Act, a statute that is only thirty-two years older. 50

This dearth of case law has provided plaintiffs with plenty of opportunities to chip away at the exemption.

51This is especially true given the evolution and complexity of modern agricultural cooperatives.

Some of the more recent challenges to the Capper-Volstead Act include the following:

The inadvertent inclusion of a non-farmer in the cooperative. Under certain circumstances, a cooperative can lose its antitrust [\*9] immunity if its membership includes non-farmers. 52But many farming operations are familyowned and utilize different corporate entities for various aspects of the business, such as one entity devoted to the farming operation while another is devoted to processing the product. What happens if the owners of the various agricultural businesses inadvertently had one of their non-farming entities (e.g., a distribution company) sign the cooperative membership application, even though it is clear that their farming entities were really the intended members? Will that destroy the immunity? 53

#### b. but explicitly says steps to erode are bad—KU BLUE

Barnes 21—(\*JD from George Washington University; \*\*JD from Fordham University, former Vice-Chair of the ABA Antitrust Section’s Joint Conduct Committee). Donald M. Barnes & Jay L. Levine. April 2021. “Farmer Cooperatives "Take Cover": The Capper-Volstead Exemption is Under Siege”. Arkansas Law Review, Volume 74, Number 1. Accessed 10/2/21.

The United States is not the only country to have adopted an agricultural policy designed to afford certain protection to farmers; under the European Union’s common agricultural policy, certain behavior and practices by agricultural producer organizations, which might otherwise be considered as anticompetitive, are excluded from the scope of the European Union’s competition rules.188 It is not surprising, therefore, that current attempts to undermine and weaken the American farmers’ antitrust exemption could easily have international implications. Numerous foreign countries already use the United States’ antitrust law as a model, and several have adopted antitrust exemptions for agricultural cooperatives similar to the Capper Volstead Act.189

[Begin Footnote 189]

189. For example, Japan’s Anti-Monopoly Law of 1947, following the example of the Capper-Volstead Act, exempts certain agricultural cooperatives from its application. See Hiroshi Ashino, Experimenting with Anti-Trust Law in Japan, 3 JAPANESE ANN. INT’L L. 31, 31 (1959); Hiroshi Iyori, A Comparison of U.S.-Japan Antitrust Law: Looking at the International Harmonization of Competition Law, 4 PAC. RIM. L. & POL’Y J. 59, 66 (1995). Agricultural cooperatives in Europe are similarly exempted from liability under Article 81 of the European Community (“EC”) Treaty—Europe’s analog to the Sherman Act—by Regulation 26, adopted by the EC Council in 1962. Arie Reich, The Agricultural Exemption in Antitrust Law: A Comparative Look at the Political Economy of Market Regulation, 42 TEX. INT’L L.J. 843, 849-50 (2007). The United Kingdom’s Competition Act of 1998 contains an exemption for agricultural cooperatives patterned on the EC’s Regulation 26. Id. at 856. And Israel, which regulates competition under its Restrictive Trade Practices Law of 1988, provides an exemption to agricultural cooperatives under Article 3(4) of that Law. Id. at 857-58.

[End Footnote 189]

Farmers in developing economies have faced or will eventually face the same challenges as those that confronted American farmers at the time the Capper-Volstead Act was passed.190 They deserve the same protection. Their governments could easily adopt restrictive rulings from United States courts,191 which could keep their farmers from achieving effective collective bargaining power.

[Begin Footnote 191]

191. Indeed, foreign courts often find U.S. case law instructive in interpreting their own antitrust laws. See, e.g., Rural Press Ltd. v Australian Competition and Consumer Comm’n, (2003) 216 CLR 53, 88 (Austl.) (holding market-sharing arrangements per se invalid under the Australian Trade Practices Act, citing favorably to United States case-law holding such arrangements to be per se violations of the Sherman Act); R. v. Bugden’s Taxi

[End Footnote 191]

International efforts have been underway to aid the development of farmer cooperatives and the laws that protect their activities. In a May 2012 report, the European Competition Network (“ECN”) noted concerns about price volatility and competitiveness in food production and distribution.192 Some national competition authorities believe that cooperation among producers and the creation of cooperatives would increase competition in the food sector.193 By 2013 these concerns led to the European Union’s adoption of significant reforms to its Common Agricultural Policy (the “CAP”) that set new rules for allowing joint-selling by producers in the agricultural sector.194 In November 2015, the European Commission adopted guidelines on potential competition issues arising in the implementation of these new rules as they pertain to the olive oil, beef and veal, and arable crops sectors.195 CAP reform removed production restraints to encourage farmers to base their production decisions on market signals.196 The legal framework under CAP reform also “extend[ed] the possibility for collective bargaining (in some [agricultural] sectors) and delivery contracts (for all [agricultural] sectors) to [p]roducer [o]rganisations, their [a]ssociations and Inter Branch Organisations.”197

The U.S. Overseas Cooperative Development Council (funded by USAID) is conducting a major initiative called the “Cooperative Law and Regulation Initiative” (“CLARITY”).198 Part of that initiative involves providing assistance to help national cooperative movements organize themselves, and helping to evaluate and improve their cooperative laws.199 CLARITY points to the Capper-Volstead Act as an exemplar for implementing exemptions from competition law that would otherwise prohibit certain joint action between businesses for cooperatives.200

VI. CONCLUSION

The more things change, the more they stay the same. As true now as it was in the 1920s, the number of farms continues to decline. Farmers and their cooperatives are still at the mercy of power buyers, Mother Nature, and the international marketplace. There is still a large imbalance of bargaining power. In short, the same conditions and concerns that existed at the time the Capper Volstead Act was passed continue to this day.

As the Supreme Court stated in Maryland and Virginia Milk

Producers Association v. United States:

We believe it is reasonably clear from the very language of the Capper-Volstead Act, as it was in § 6 of the Clayton Act, that the general philosophy of both was simply that individual farmers should be given, through agricultural cooperatives acting as entities, the same unified competitive advantage–and responsibility–available to businessmen acting through corporations as entities.201

That rationale continues to apply today. Nevertheless, power buyers and other opportunistic interests continue to enlist the courts in eroding the basic foundations of the exemption, and the implications will have far reaching effects. The bargaining power and economic viability of farmers and their cooperatives will be undermined here and abroad as foreign governments and their courts follow the lead of the United States. Aggressive legal attacks on the very foundations of cooperatives themselves are being waged and hope now rests with the higher courts or Congress.

### 2NC-AT: Megacities

#### Safe havens don’t matter.

Pillar 20, nonresident senior fellow at Georgetown University’s Center for Security Studies. (Paul R., 5-13-2020, "The American Perception of Substate Threats", *A Dangerous World? Threat Perception and U.S. National Security*, https://www.cato.org/publications/publications/american-perception-substate-threats)

The other customary worry about terrorist havens concerns not what any new regime would tolerate, but instead how terrorists would exploit disorder and lawlessness to establish such a haven. The group does what it wants to do, in other words, because the chaos of domestic conflict places it beyond the reach of any regime, domestic or foreign. That scenario presents somewhat more basis for concern because it does not postulate regimes getting into the terrorist business against their own interests, but it suffers from two other limitations. One is that although a little bit of disorder may help keep a terrorist group beyond the reach of law and government, a lot of disorder does not often help it. Terrorist organizations find it hard to operate in truly chaotic situations for the same general reasons legitimate businesses and other organizations find it hard to operate in such situations. That is why al Qaeda did not make as many inroads in Somalia as many predicted during the two decades that country was the archetypical chaotic failed state.

A second limitation is that terrorist safe havens are, quite simply, overrated. They may seize our attention as a spatially satisfying way of keeping score of how we are doing against any adversary that, like the United States, operates internationally. Among all the variables that help determine how much of a threat any one group represents, however, having a small patch of real estate is not one of the more important ones. That is all the more the case in an era of globalization and globe‐​spanning information technology in which planning, recruitment, and the direction of operations take place at least as much in virtual space as they do in physical space.19 When physical space is involved in a terrorist threat to U.S. interests, it is at least as likely to be in an apartment or mosque in a Western city (or a flight school in the United States) as on a piece of ground in some strife‐​riven land outside the West. Preparation of the most famous terrorist operation of all—9/11—is a prime example.

### 2NC – !D – Warming

#### Clean disruption solves.

Seba 14 - MBA @ Stanford, lecturer in distribution and clean energy @ Stanford (Tony, “Clean Disruption of energy and transportation: How silicon valley will make oil, nuclear, natural gas, coal, electric utilities and conventional cars obsolete by 2030,” pg. 2-17)

The Stone Age did not end because humankind ran out of stones. It ended because rocks were disrupted by a superior technology: bronze. Stones didn't just disappear. They just became obsolete for tool-making purposes in the Bronze Age. The horse and carriage era did not end because we ran out of horses. It ended because horse transportation was disrupted by a superior technology, the internal combustion engine, and a new, disruptive 20th century business model. Horses didn't just disappear. They became obso ete for the purposes of mass transportation. The age of centralized, command-and-control, extraction-resource-based energy sources (oil, gas, coal and nuclear) will not end because we run out of petroleum, natural gas, coal, or uranium. It will end because these energy sources, the business models they employ, and the products that sustain them will be disrupted by superior technologies, product architectures, and business models. Compelling new technologies such as solar, wind, electric vehicles, and autonomous (self-driving) cars will disrupt and sweep away the energy industry as we know it. The same Silicon Valley ecosystem that created bit-based technologies that have disrupted atom-based industries is now creating bit- and electron-based technologies that will disrupt atom-based energy industries.

Clean Disruption of Energy and Transportation.

The industrial era of energy and transportation is giving way to an information technology and knowledge-based energy and transportation era. The combination of bit-based and electron-based technologies will put an end to conventional atom-based energy and transportation industries. The disruption will be a clean one and have the following characteristics:

1. Technology-based disruption.

The clean disruption is about digital (bit) and clean energy (electron) technologies disrupting resource-based (atom-based) industries. Clean energy (solar and wind) is free. Clean transportation is electric and uses clean energy derived from the sun and wind. The key to the disruption of energy lies in the exponential cost and performance improvement of technologies that convert, manage, store, and share clean energy. The clean disruption is also about software and business model innovation.

2. Flipping the architecture of energy.

Just as the Internet and the cell phone turned the architecture of information upside-down, the clean disruption will create an energy architecture that is different from the one we know today. The new energy architecture will be distributed, mobile, intelligent, and participatory. It will overturn the existing energy architecture, which is centralized, command-and-control oriented, secretive, and extractive. The conventional energy model is about Big Banks financing Big Energy to build Big Power Plants or refineries in a few selected places. The new architecture is about everyone financing everyone to build smaller, distributed power plants everywhere.

3. Abundant, cheap, and participatory energy.

The clean disruption will be about abundant, cheap, and participatory energy. The existing energy business model is based on scarcity, depletion, and command-and-control monopolies. The clean disruption is similar to the information technology revolution that overturned the old publishing and information model and made information abundant, participatory, and essentially free.

4. Clean disruption is inevitable.

The clean disruption of energy and transportation is inevitable when you consider the exponential cost improvement of disrupting technologies; the creation of new business models; the democratization of generation, finance, and access; and the exponential market growth.

5. Clean disruption will be swift.

It will be over by 2030. Maybe before. Oil, natural gas (methane), coal, and uranium will simply become obsolete for the purposes of generating significant amounts of electricity and powering the automobile. These energy sources will still have uses. For example, uranium will be used to make nuclear weapons and natural gas will be used for cooking and producing fertilizer. Obsolescence and clean disruption will not put an end to incumbent industries. We still have vinyl records, sailboats and jukeboxes. These niche market products will survive, but energy and transportation will not be the multi-trillion dollar energy heavyweights that they are today.

In twenty years we'll wonder how we put up with the horrendous consequences of the incumbent, conventional, $8 trillion-a-year energy industry. If Nikola Tesla and Thomas Alva Edison rose from the dead, they would recognize the industry that they helped build a century ago and they would be disappointed at how little it has changed. Today's versions of Tesla and Edison are creating technologies, products, and business models that will dismantle the extractive, centralized, dirty- energy age in which we live. The first wave of energy disruption has already begun with distributed solar and wind generation. It won't be long before the next wave crashes over the remains of the first one. Transportation is a $4 trillion industry globally. The transportation industry is inextricably linked with energy. As this book explains, the internal combustion engine automobile will soon be disrupted, an event which will, in turn, send disruptive shockwaves through the oil industry. The first wave of disruption of the century-old automotive industry is well underway with electric vehicles. The second disruptive wave, the self-driving car, will hit before the first wave is finished crashing. Transportation will never be the same again. This book is about how a new technology-based infrastructure and a set of products and services governed by the economics that have made Silicon Valley a source of market disruption over the last generation will disrupt energy industries that have barely evolved over the past hundred years.

# 1NR---Round 5

### !---Turns Ag---Sustainable Ag

#### Infrastructure solves sustainable/regenerative ag and climate

Barry 21, graduate student at the University of Colorado Boulder where she is pursuing her master's degree in sustainable food systems. She is also a content and media relations intern with Rodale Institute (Caroline, “WHAT BIDEN’S CLIMATE PLAN MEANS FOR REGENERATIVE AG,” Rodale Institute, https://rodaleinstitute.org/blog/what-bidens-climate-plan-means-for-regenerative-ag/)

President Joe Biden has introduced an ambitious climate plan for the United States. Could regenerative agriculture help us get there? President Biden has pledged to spend up to $2 trillion on climate change initiatives. “Climate change” is a broad-brush topic, so how will these measures impact food, agriculture and regenerative organic farming? Let’s take a closer look at “The Biden-Harris Plan to Build Back Better in Rural America” and examine how a few key proposals could impact the food system. Agriculture & The Climate Crisis: First… what does agriculture have to do with climate change? Agricultural activities are responsible for nearly a quarter (24%) of global greenhouse gas emissions. But building healthy soil by implementing regenerative practices like cover cropping and reduced tillage can help sequester carbon and mitigate the damage to our climate. Reducing reliance on fossil-fuel-intensive synthetic chemicals, grazing animals on pasture, and other organic practices can play a major role.

Biden’s Plan

While President Biden hasn’t directly stated the role that regenerative organic agriculture will play in his administration, these farming practices (and their outcomes!) are uniquely suited to its climate goals. Most notably, the Biden administration has proposed a carbon market to incentivize carbon capture. For farmers, this could mean receiving payments for the carbon they sequester in their soils. Many scientists, agribusinesses and lawmakers agree that healthy soils will be vital to curbing the climate crisis. Let’s dive deeper and examine some key proposals from the “The Biden-Harris Plan to Build Back Better in Rural America:” Key Proposal 1: Help farmers leverage new technologies, techniques, and equipment to increase productivity and profit while tackling the challenge of sequestering carbon and reducing emissions – making American agriculture the first in the world to achieve net-zero emissions and create new sources of income for farmers in the process. In Their Words: “President Biden will make a significant investment in research to refine practices to build soil carbon while maximizing farm and ranch productivity. Soil is the next frontier for storing carbon.” What This Means For Regenerative Ag: Regenerative agriculture has the potential to drawdown greenhouse gas emissions and sequester them in the soil due to its emphasis on soil microbiome, reduced tilling, livestock integration, and more. We may soon see the introduction of carbon markets and new technologies that encourage and incentivize regenerative organic farming practices, including a stronger emphasis on the importance of healthy soils.

### 1NR---UQ

#### Passage is likely---dems are inching closer

Stimson 10-29-2021 (Brie, “Progressives block infrastructure vote before Biden trip, but back reconciliation plan: LIVE UPDATES,” Fox news, <https://www.foxnews.com/live-news/biden-europe-democratic-infighting-infrastructure-vote>)

The Congressional Progressive Caucus got the best of House Speaker Nancy Pelosi, D-Calif., and President Biden yet again Thursday after the pair pushed for a vote on the infrastructure bill before Biden's climate summit in the U.K. next week. The caucus forced the House to put off a vote on the bill yet again. The group and Chairwoman Rep. Pramila Jayapal, D-Wash., are demanding more progress on the passage of Democrats' reconciliation spending plan before they will let the bipartisan infrastructure bill pass, because they don't trust Senate moderates to pass it. "The reality is that while talks around the infrastructure bill lasted months in the Senate, there has only been serious discussion around the specifics of the larger Build Back Better Act in recent weeks, thanks to the Progressive Caucus holding the line and putting both parts of the agenda back on the table," Jayapal said in a Thursday statement. "Members of our Caucus will not vote for the infrastructure bill without the Build Back Better Act. We will work immediately to finalize and pass both pieces of legislation through the House together," she added. But Jayapal and her members also endorsed the framework for a reconciliation bill that President Biden released Thursday morning, which would cost $1.75 trillion. $1.75 trillion is an exorbitant amount of money. But it's half of the $3.5 trillion progressives were pushing for at the beginning of the reconciliation process. And some progressives had their sights set even higher, on a bill that might cost $6 trillion or more. The price needed to drop because Sens. Joe Manchin, D-W.Va., and Kyrsten Sinema, D-Ariz., as well as other moderates in the House and Senate, were concerned about spending too much money as the economy is coming out of the coronavirus pandemic. Neither Sinema nor Manchin have explicitly endorsed the Biden reconciliation framework yet. And Democrats admit that there is still a lot of work to do to turn the president's proposal into a final bill that will pass both the House and the Senate -- any one senator, or just a handful of House members, can tank the whole endeavor. But with progressives' support for a plan that represents massive compromises on many of their biggest priorities, Democrats appear to be inching closer to a deal that could see both infrastructure and reconciliation pass in November. "The Congressional Progressive Caucus just overwhelmingly voted to endorse in principle the entire Build Back Better Act framework announced by President Biden today," Jayapal said Thursday.

### 1NR---AT Edwards

#### Political capital is key to pass a significant infrastructure bill

Cullen 21, Executive Editor of Heavy Duty Trucking Magazine (David, “Highway Funding and the New Political Calculus on Capitol Hill,” *Trucking Info*, [https://www.truckinginfo.com/10135503/highway-funding-and-the-new-political-calculus-on-capitol-hill)](https://www.truckinginfo.com/10135503/highway-funding-and-the-new-political-calculus-on-capitol-hill)//BB)

Although their ideologies do not neatly match up, all these politicians can be described as pragmatists who refuse to be boxed in by the hard-left or hard-right wings of their parties. In a sharply divided Senate, their clout as deal-makers who are comfortable meeting in the middle is expected to corral enough votes to wrangle contentious bills across the finish line. That is not to say that senators in the minority won’t be tempted to filibuster to prevent a measure from being brought to a vote. A filibuster requires most bills to meet a 60-vote threshold to pass. On the other hand, the majority party is in a strong position to approve any motion that only requires a simple majority, such as confirming executive-branch appointments. However, should now-Minority Leader McConnell obstruct passage of President Biden’s agenda bill-by-bill, Democrats currently not in favor of killing the filibuster may rethink their position. Also helping drive the president’s agenda will be Biden himself. The 46th president does have a popular-vote mandate, which affords him political capital to spend on pushing his policies. He also has the know-how to horse-trade and buttonhole votes in Congress, having served in various Senate leadership posts in his 36 years there. And through two terms as vice president for Barack Obama, he was charged with reaching compromises with another ace of the political game, Mitch McConnell. Then there’s Harris, who also knows her way around Capitol Hill having served as a senator for several years. Action on Infrastructure Given all that, the outlook this year for passing a significant infrastructure bill, which likely will incorporate changes in how highways are federally funded and provide incentives for greener cars and trucks, appears brighter than it has in a long time. For one thing, Biden’s policy agenda calls for “a [transformational investment](https://joebiden.com/clean-energy/) in our country’s infrastructure and future” of $1.3 trillion over 10 years, which covers all sorts of infrastructure projects. More immediately, that plan will seek to spend, in just his first year in office, $50 billion “to kickstart the process” of repairing existing roads, highways, and bridges while boosting the economy. Specific items in the plan include creating a national electric-vehicle charging network, modernizing the nation’s electric grid, and pushing to build a national high-speed rail network. On the road side, Biden wants to increase federal funding for safety initiatives such as the Department of Transportation’s existing [Highway Safety Improvement Program](https://safety.fhwa.dot.gov/hsip/) and encourage state and local governments to explore new technologies that can reduce accidents, including ‘smart’ pavement, vehicle-to-infrastructure communication, connected intersections, and other such innovations. Also of direct interest to trucking is Biden’s call to invest $400 billion over 10 years in clean energy research and innovation. His plan seeks to develop a federal research program focused on reducing the cost of biofuels and increasing their energy density, while “developing more efficient engines that can power long-haul trucks, planes, and ships, to keep global commerce moving while reaching net-zero emissions by 2050.” Paying for Infrastructure The new administration is also keyed in on a policy change regarded throughout trucking as a must-have: addressing the “grossly underfunded” Highway Trust Fund. Biden wants to see it stabilized with new revenues – but has not outlined specifically how to do that. Raising the federal fuel tax would be one option, but other proposals include a vehicle-mile tax or a carbon tax on the use of oil, gas, and coal as fuel. In practical terms, the trucking-related elements in the Biden policy plan may become law by way of the Senate adopting and/or modifying the $500 billion five-year “green” infrastructure bill passed by the House last year. Dubbed the [“Invest in America” Act](https://transportation.house.gov/the-invest-in-america-act), this bill would have funded highways and advance clean transportation efforts. But it also had other measures woven into it that trucking interests would aim to modify or eliminate if the Senate takes up the bill, such as:

* Implement revised methodology for the Compliance, Safety, Accountability program
* Return CSA scores to public view before federal regulators have finished their [ongoing reform of the system](https://www.truckinginfo.com/317039/7-things-you-need-to-know-about-upcoming-csa-changes)
* Delay implementing the more flexible [hours-of-service rule](https://www.truckinginfo.com/10126692/new-hours-of-service-rules-take-effect-sept-29) (which went into effect after the bill was passed) until a comprehensive review is completed within 18 months (suggesting that HOS is not yet out of the legislative crosshairs)
* Adjust the ELD personal conveyance guidance to require setting up specific mileage or time limits, or both.

To be sure, none of those proposed changes are set in stone. As American Trucking Associations President and CEO Chris Spear said in a statement last year [when the bill was rolled out](https://www.truckinginfo.com/359801/house-highway-bill-would-postpone-new-hos-rules), while it boasts “significant investment in our country’s roads and bridges…. [and while] we may not agree on every provision therein, this is a real and commendable step… to advance the process in the House and ultimately arrive at a negotiable solution with the Senate.” In short, there’s still a lot of negotiating and compromising to be done. But the House-passed bill, coupled with the Biden policy initiative, adds up to a solid starting point from which to mount a bipartisan campaign to drive desperately needed highway funding legislation across Capitol Hill and onto the White House for the president’s signature.

### 1NR---AT Gift

#### Withdrawal doesn’t cost PC

Kapur 8-24-2021 (Sahil, “Joe Biden bets a war-weary America will reward him for leaving Afghanistan,” *NBC News*, <https://www.nbcnews.com/politics/white-house/joe-biden-bets-war-weary-america-will-reward-him-leaving-n1277104>)

President Joe Biden is standing firmly by his decision to withdraw U.S. forces from Afghanistan, despite chaotic scenes of the Taliban rapidly seizing control and the U.S. rushing to airlift diplomats out of the country. Behind his confidence is a political bet that a war-weary U.S. public will stick with him and enable him to weather a firestorm of criticism, not just from his Republican opposition but also from Democratic allies who promise to investigate failures surrounding the withdrawal. Public support for the withdrawal has fallen from earlier this year, but pluralities still want U.S. forces out, according to two new surveys. A Yahoo News poll found that 40 percent support the pullout, while 28 percent oppose it. (In July, 50 percent favored the pullout.) A Morning Consult/Politico poll found that 49 percent support the withdrawal, while 37 percent oppose it. (In April, 69 percent backed withdrawal.) The criticism has been heaviest over the execution of the withdrawal, including the failure to evacuate U.S. personnel and partners in time for the rapid Taliban takeover. Republican lawmakers, and some Democrats, have compared it to the fall of Saigon, South Vietnam, in 1975. At the moment, Biden needs all the political capital he can muster, in order to spend it on signing an infrastructure bill and a $3.5 trillion social safety net package at the core of his domestic agenda, which his party is counting on to survive a difficult midterm election cycle next year. Democratic strategists say Biden is on solid political footing, arguing that Americans will ultimately see the issue as a simple choice between continuing the occupation and ending it.

### 1NR---Link

#### Lobbies: ensure centrist backlash

Stacey 6-21-2021 (Kiran, “Big Tech lobby looks to moderate Democrats to defeat new regulation,” *Financial Times*, <https://www.ft.com/content/44baae26-564b-4314-a622-637a54282520>)

Senior Democrats are pushing back against attempts by members of their own party to regulate large technology companies, in a sign of how difficult progressives are likely to find it to rewrite US competition laws. Democratic members of the House of Representatives have attacked a package of measures being promoted by members of the House antitrust subcommittee, as opposition builds to radical proposals that some hope could lead to the break-up of Big Tech. The rift shows how difficult it will be to enact a big shake-up of US antitrust laws, even as President Joe Biden considers signing his own executive order to strengthen regulators’ powers to promote competition in their sectors. Zoe Lofgren, a Democratic representative from California, told the Financial Times: “I don’t think they spent a lot of time drafting these bills, some of the measures in them are embarrassing . . . I am in favour of making adjustments to antitrust laws, but some of these are radical.” Lou Correa, another Democratic representative from California, said: “I’m not sure we should try to break up some of these companies. And why are we singling out American companies, and especially those from California?” The House judiciary committee last week passed six bills aimed at breaking the corporate power enjoyed by the likes of Google, Facebook, Amazon and Apple. The move is part of a broader push to enact the most significant change to US competition law in a generation. But industry lobbyists are targeting centrist Democrats and those from California in particular as they try to block the most radical measures. One of the bills would ban large technology companies from giving preferential treatment to their own products and could stop practices such as Amazon using its online store to promote products it has made. Another would prevent them from buying up rivals or nascent competitors, as Facebook did with both WhatsApp and Instagram. Biden has signalled his support for taking on Big Tech by appointing Lina Khan, a law professor who has called for the break-up of Amazon, to chair the Federal Trade Commission and Tim Wu, another prominent critic, as a White House adviser. Amazon on Wednesday filed a petition with the FTC, calling on Khan to recuse herself from investigations involving the company. Wu is one of those working on an executive order which would give greater power to industry regulators to encourage competition in their sectors. As part of that order, officials are considering ordering regulators to ban “non-compete” clauses, which have been used by companies including Amazon to stop their employees moving to work for their rivals. A White House spokesperson said: “The president made clear during his campaign that he is committed to increasing competition in the American economy . . . but there is no final decision on any actions at this time.” Critics of Big Tech are keen to push for legislative changes after antitrust lawsuits filed against Facebook by the FTC and dozens of state attorneys-general using existing competition law were thrown out of court this week. But the comments by Lofgren and Correa show how hard it will be to pass such legislation, even though it has attracted the support of a handful of Republican critics of Big Tech. They come days after Steny Hoyer, the Democratic leader in the House, warned that the bills had triggered opposition from senior members of his party and were not ready for a vote by the full chamber. Earlier this month, a separate set of eight Democrats warned the bills “may weaken personal privacy protections [and] cyber security, and increase the spread of dangerous conspiracy theories and misinformation”. Democrats have a thin majority in the House of Representatives and Kevin McCarthy, the Republican minority leader, has signalled his opposition. One industry lobbyist expressed confidence that the bills would not make it through the House, saying: “The centrist Democrats and the California delegation should see to that.”

#### Applying antitrust to big ag encounters fierce political backlash

Kaufman 8-17-2021, Author of THE FALL OF WISCONSIN (Dan, “Is It Time to Break Up Big Ag?,” New Yorker, <https://www.newyorker.com/news/dispatch/is-it-time-to-break-up-big-ag>)

Perhaps the most pivotal figure in any effort to break up Big Ag will be Tom Vilsack, Biden’s Secretary of Agriculture, and the only Cabinet member from the Obama Administration to return to office under Biden. Vilsack had been a rural adviser for Obama’s 2008 campaign, which offered a decidedly populist message to farmers. “The game’s been rigged,” Obama had said, during a visit to a farm in Adel, Iowa. “It’s time we had a government that understood it’s the Department of Agriculture, not the Department of Agribusiness.” After winning the Democratic nomination, Obama released a plan for rural America that included rigorous enforcement of antitrust laws like Packers and Stockyards. Obama won forty-five per cent of the national rural vote, carrying Iowa by ten points and Wisconsin by fourteen. When Obama picked him to lead the Department of Agriculture, Vilsack was widely considered a pro-business choice, a former governor who had supported tax breaks for the ethanol industry. But his political ascent was preceded by a difficult childhood. Born to an unwed Irish American mother, in Pittsburgh, he was placed in a Catholic orphanage, and adopted as a four-month-old; by the time he left for college, his adoptive mother, who struggled with alcohol and prescription drugs, had made two suicide attempts. After graduating from law school, in Albany, New York, he moved to Mount Pleasant, Iowa, his wife’s home town, and joined his father-in-law’s firm. The job put him in contact with farmers who, during the Reagan Administration, were facing their biggest crisis since the Depression. “I represented a lot of farmers who were losing their farms,” Vilsack told me. “That directed my interest to try to provide some help.” In December of 1986, a disgruntled homeowner, angry about backed-up water in his basement from the town’s sewer system, rose at a Mount Pleasant city-council meeting, pulled out a handgun, and shot and killed the mayor, Edd King. King’s father asked Vilsack to run in the ensuing special election. Vilsack won the mayor’s race—and, later, a state senate seat, and then two terms as Iowa’s governor. As a member of Obama’s cabinet, Vilsack publicly embraced organic agriculture, established a program to bring locally grown foods to school cafeterias, and launched the U.S.D.A.’s StrikeForce Initiative, which invested more than twenty-three billion dollars in infrastructure, conservation, nutrition, and other programs in rural counties with persistently high poverty rates. But he also proved to be a mostly reliable steward of the corporate-friendly status quo. He approved so many genetically modified crops that critics began calling him Mr. Monsanto. At the 2009 United Nations Climate Change Conference, in Copenhagen, he unveiled a plan for the U.S.D.A. to help farmers cut greenhouse-gas emissions by buying manure digesters, even though they are useful only for large, carbon-intensive factory farms. Vilsack also faced pressure to revive antitrust enforcement. Two years before he took office, a U.S.D.A. inspector general’s report revealed that the Grain Inspection, Packers, and Stockyards Administration, or gipsa, the agency within the U.S.D.A. tasked with enforcing fair business practices, was actively blocking the enforcement of its own rules. Most notably, gipsa’s acting administrator had stashed about fifty of the agency’s enforcement actions in a desk drawer, instead of prosecuting them. In response, Vilsack proposed a set of sweeping measures that would, among other things, make it easier for farmers to sue processors for harming their business. “I think it’s fair to say what we’re proposing is aggressive,” Vilsack said, in a news conference announcing the new rules. “Our job is to make sure the playing field is level for producers.” In 2010, Vilsack hosted a nationwide series of hearings to investigate anticompetitive practices and market concentration in various agricultural sectors. “The President has instructed the Department of Agriculture to establish a framework for a new rural economy,” he said at the first hearing, in Iowa, which was attended by Attorney General Eric Holder and Christine Varney, the head of the Justice Department’s antitrust division. At a hearing in Madison, Wisconsin, which focussed on the dairy industry, hundreds of farmers were in attendance, some from as far as California and New Mexico. Vilsack highlighted the problems that agricultural consolidation was causing for rural America. He noted that rural counties in the U.S. accounted for ninety per cent of those with persistent poverty—meaning, twenty per cent or more of the population has lived in poverty for the past thirty years—and that nearly half the country’s dairy farms had been lost in the previous decade. “When we lose farming operations, it not only impacts that specific family but it also has a significant impact on rural America,” he said. “I have a growing concern about the condition of rural America.” Meanwhile, the meat industry began an intensive lobbying campaign against Vilsack’s proposed gipsa rules, which the National Farmers Union had dubbed the “Farmer and Rancher Bill of Rights.” The House and Senate Agriculture Committees requested that Vilsack extend the deadline for comments, which he did, putting the new deadline beyond the 2010 midterm elections. That year, as the journalist Christopher Leonard details in “The Meat Racket,” the country’s five largest meat companies and their front groups spent nearly ten million dollars on lobbying, casting the gipsa rules as job-killing regulatory overreach. After the midterms, when Republicans regained control of Congress, they attached an annual rider to the U.S.D.A. appropriations bill stripping the agency of funds to complete the rule-adoption process. Vilsack did not fight back. In 2016, he told the Des Moines Register, “I don’t think just because a couple of the major players are going to potentially merge or consider some other kind of arrangement that that necessarily long-term absolutely guarantees that farmers are going to have less choice.” A few weeks after leaving office, Vilsack was hired as president of a dairy-export group, earning roughly a million dollars a year. His successor in the Trump Administration, Sonny Perdue, effectively eliminated gipsa. “When Vilsack failed to follow through, it really set the effort back,” Leonard told me. “It was worse than if they had done nothing. It emboldened the companies not only to continue their practices but to intensify them.”

#### Time: Any legislation takes years.

Stern 20 (Christopher, “Split Government Could Doom Antitrust Reform, but Tech to Remain in Crosshairs,” *The Information*, <https://www.theinformation.com/articles/split-government-could-doom-antitrust-reform-but-tech-to-remain-in-crosshairs>)

The Democrats’ apparent failure to secure a majority in the Senate will likely be a big disappointment to advocates of antitrust reform aimed at curtailing what they view as anticompetitive conduct by big tech companies. The changes they are seeking are aimed at making it easier for prosecutors to win antitrust convictions against companies with dominant market power. David Cicilline, the Democrat who chairs the House Antitrust Subcommittee, plans to introduce a series of bills to achieve those goals, after spending a year leading a congressional investigation into the business practices of Apple, Amazon, Google and Facebook. Democratic control of the Senate would have greatly improved the odds of those bills becoming law. While many Republican lawmakers are supportive of tougher antitrust enforcement, they have generally opposed efforts to change current legal standards. Still, hope for antitrust reform might not be completely dead, said Seth Bloom, a former general counsel for the Senate’s antitrust subcommittee, who represents firms including Amazon as a lobbyist. Bloom said the antagonism toward big tech of some prominent Senate Republicans, including Josh Hawley and Ted Cruz, could lead them to support proposals that undermine the power of those companies. Even if Democrats manage to squeak through antitrust changes, any legislation would likely take more than a year to make its way through Congress. Tech companies could see a more immediate impact on another aspect of their businesses: mergers and acquisitions approval.

#### floor time is limited and congress must prioritize.

Heitshusen 13 – Analyst on Congress and the Legislative Process (Valerie, 3/18/13, ‘The Legislative Process on the Senate Floor: An Introduction”, [http://www.senate.gov/CRSReports/crs-publish.cfm?pid=%26\*2D4Q%5CK3%0A](http://www.senate.gov/CRSReports/crs-publish.cfm?pid=%26*2D4Q%5CK3%0A))

The legislative process is laborious and time-consuming, and the time available for Senate floor action each year is limited. Every day devoted to one bill is a day denied for consideration of other legislation, and there are not enough days to act on all the bills that Senators and Senate committees wish to see enacted. Naturally, the time pressures become even greater with the approach of deadlines such as the date for adjournment and the end of the fiscal year. So, for all but the most important bills, even the threat of a filibuster can be a potent weapon. Before a bill reaches the floor or while it is being debated, its supporters often seek ways to accommodate the concerns of opponents, preferring an amended bill that can be passed without protracted debate to the time, effort, and risks involved in confronting a filibuster or the threat of one.

#### Time is key- the window for floor time is closing- we have 3 days

Newell 8’24

(Jim Newell senior political writer @ Slate. “House Democrats Turn, Briefly, From Fighting One Another to Fighting the Clock” <https://slate.com/news-and-politics/2021/08/democrats-spending-reconciliation-budget-infrastructure-gottheimer-pelosi-progressives.html>) **AB**

What was so exhausting? The nine moderates, led by New Jersey Rep. Josh Gottheimer, who were refusing to vote for the budget until the House had passed the bipartisan infrastructure bill recently brokered in the Senate. Despite risking abject humiliation in drawing a red line against the agreed-upon legislative strategy of House progressives, Nancy Pelosi, and the White House, those nine were holding strong longer than expected. Who “won” the standoff that nearly broke poor McGovern will depend on how quickly Democrats can work in the next month. In the end, the Gottheimer Gang agreed to go along with the budget—which passed with unanimous Democratic support on Tuesday—in exchange for a House vote on the infrastructure deal by no later than Sept. 27. This is important, because it puts an expiration date on an open-ended commitment Pelosi had made earlier. Her position was that the House would not pass the bipartisan infrastructure deal until the Senate had also sent over a reconciliation bill, with the priorities progressives most value. Keeping the bipartisan bill that moderates craved as a hostage, then, gave progressives leverage. Gottheimer, when asked why he was demanding the bipartisan bill get a vote first, would project a certain urgency about how “we need to get the shovels in the ground now.” Whatever. What Gottheimer really wanted was to free the hostage, so then moderates would have all the leverage to negotiate down the price and scope of the reconciliation bill, as they’re accustomed to. Now everyone is hostage to a date, and Pelosi, the White House, and progressives’ leverage is on the clock. Reaching agreement on a multi-trillion dollar reconciliation bill that is favorable to nearly 100 percent of House Democrats, and a necessary 100 percent of Senate Democrats, isn’t easy in any time frame. It will be an enormous ask to get it largely completed by the end of September, which coincides with a deadline for funding the government. Congress also needs to raise the debt ceiling around then to avoid financial catastrophe, by the way. We’d describe their current plan for doing so as incomplete.