# Off

#### Interpretation: Financial incentives exclude rules on utilities providers

Menz, 5

[Fredric, Faculty of Economics and Finance, School of Business, Clarkson University, Bertrand H. Snell Hall, Potsdam, NY, also from the Center for International Climate and Environmental Research, Oslo (CICERO), Norway, “Green electricity policies in the United States: case study,” Energy Policy, December, Science Direct]

There is considerable variation among the states in their regulatory environments and policies for

considerable variation among the states in their regulatory environments and policies for green power development. In the following discussion, state and local policy instruments are categorized as financial incentives, rules and regulations, and voluntary measures.6 Financial incentives include various forms of government subsidies and/or funding in direct support of green electricity projects, tax incentives (credits, deductions, or exemptions), and provisions for zero-interest or low-interest loans. Rules and regulations include requirements that utilities distribute a minimum share of electricity from renewable or green energy sources, construction and design standards for green energy in building codes, green power purchase requirements for government entities, and requirements that consumers with small renewable facilities such as wind or solar be credited by their utility for the amount of electricity they generate (net metering). Voluntary measures include green power products aimed at electricity consumers (green power choices in competitive markets and green power pricing in regulated markets), green power certificate programs, and other programs to increase awareness and market support for renewable energy technologies.

#### Violation – Plan provides purchases for green energy through a feed in tariff

Brady, 4

[A Thesis In The Department of Political Science Presented in Partial Fulfillment of the Requirements for the Degree of Master of Arts (Public Policy and Public Administration) at Concordia University Montreal, Quebec, Canada (Jonathan, “Wind Boom, Wind Bust: An Examination of the Conditions and Policies that Led to Gennany's Wind Industry and Canada's Lack Thereof,” December,[http://spectrum.library.concordia.ca/8274/1/MR20699.pdf)](http://spectrum.library.concordia.ca/8274/1/MR20699.pdf%29)]

Government employed regulatory and financial incentives have played a salient role in this rapid growth of wind energy production. The most successful regulatory incentive in stimulating wind energy production and decreasing technology costs has been a form of regulatory pricing legislation known as feed-in tariffs or feed-in laws. The chief idea behind them is that national governments establish the price of the wind energy and allow the market to determine capacity and generation. More specifically, national governments oblige electric utility companies to enable wind-generating producers (i.e. owners and operators of wind turbines) to connect to the electric grid, and purchase any electricity generated by wind turbines at a fixed minimum share of the retail price of electricity - at least 85 percent? These prices and payments are guaranteed over a specific period of time - usually no less than five years. The costs of higher payments for wind energy are either covered by an additional per kilowatt-hour (kWh) charge on all consumers according to their level of use, or by a charge on those customers of utilities required to purchase wind generated electricity (EWEA 2004b; EWEA 2004c; Hvelplund 2002; Sawin 2004). Financial incentives such as tax credits and/or production subsidies have also been useful in sparking investment interest in the wind industry. These regulatory and financial incentives, in tandem or individually, represent national government's means of stimulating private sector investment into the wind industry. It has been the private sector's enthusiastic response to these incentives that have driven this remarkable wind boom (i.e. expansive growth in wind energy production and wind industry development) during the last decade.

#### Voting issue –

#### A. Limits – each category is massive, they explode the topic by allowing hundreds of new, conceptually distinct incentives – makes neg research impossible.

#### B. Categorical bi-directionality – negative incentives allow affs to ADD restrictions to parts of the topic – forcing us to defend both increased and decreased restrictions for each category – that explodes predictable limits.

#### C. Ground – different generics apply by category – they dodge the best incentive DA links by not picking a winner and negatively incentivizing a different type of energy source.

# Off

#### Text: The United States Supreme Court should rule [Federal Energy Regulatory Commission restrictions on feed-in tariffs for solar] are a factor unconstitutional.

#### [A.] Solvency – Courts have authority to rule over energy production

Brenda Bowers April 2011 “Future Of American Energy Production At Stake In US Supreme Court – Big Government” http://brendabowers.wordpress.com/2011/04/19/%C2%BB-future-of-american-energy-production-at-stake-in-us-supreme-court-big-government/

We all know how important energy is in our lives, just as commercial energy is critical to free market capitalism and the pursuit of prosperity in America. Now, thanks to environmental activists and several states, that may all be at risk in the US Supreme Court. In 2004, unhappy that the duly elected Bush administration wasn’t restricting carbon emissions in the alleged cause of global warming, environmental activism prompted several states to file a “public nuisance” lawsuit, which would empower the courts in this regard. They lost in the lower court but that was reversed in 2007. This case is novel, and far more aggressive and disruptive than the global warming case the Court previously permitted. In a 2007 decision, Massachusetts v. EPA, a closely divided Court agreed with 12 states and several cities that the Environmental Protection Agency has authority to regulate carbon dioxide as a pollutant under the Clean Air Act. Though that case dealt with a narrow claim to enforce a federal statute, the Court’s decision emboldened what had already become a cottage industry of lawsuits designed to slow global warming by asking federal courts to enact what interest groups have been unable to secure through the democratic process: carbon caps and other limits on the way energy is produced in this country. Under the guise of “public nuisance,” the plaintiffs in these suits seek to impose enormous damages and binding emissions caps on energy companies. The plaintiffs have acknowledged that their goal is a veritable sea change in the way energy is produced, sold, and used in this country. Incredibly, they assert that these companies can make major changes to lower emissions – such as the adoption of wind and solar alternatives – “without significantly increasing the cost of electricity.” But never before has the “public nuisance” doctrine been used to set national economic and energy policy. While litigation may be therapeutic for those frustrated by political inaction, this case is at odds with this country’s legal tradition. Meanwhile, a recently elected Republican House is taking steps to go in the other direction through budget cuts to the EPA. Environmental activism in the US is, in effect, looking to up-end the democratic process – an all too common theme across the Left – by empowering the courts to make policy in perhaps the single most critical policy area for American prosperity.

#### [B.] Competition – doesn’t reduce restrictions, just rules them unenforceable

Treanor & Sperling 93 William - Prof Law at Fordham. Gene - Deputy Assistant to President for Economic Policy. “PROSPECTIVE OVERRULING AND THE REVIVAL OF "UNCONSTITUTIONAL" STATUTES,” Columbia Law Review, Dec 93, lexis

Unlike the Supreme Court, several state courts have explicitly addressed the revival issue. The relevant state court cases have concerned the specific issue of whether a statute that has been held unconstitutional is revived when the invalidating decision is overturned. n42 With one exception, they have concluded that such statutes are immediately enforceable. The most noted instance in which the revival issue was resolved by a court involved the District of Columbia minimum wage statute pronounced unconstitutional in Adkins. After the Court reversed Adkins in West Coast Hotel, President Roosevelt asked Attorney General Homer [\*1913] Cummings for an opinion on the status of the District of Columbia's statute. The Attorney General responded, The decisions are practically in accord in holding that the courts have no power to repeal or abolish a statute, and that notwithstanding a decision holding it unconstitutional a statute continues to remain on the statute books; and that if a statute be declared unconstitutional and the decision so declaring it be subsequently overruled the statute will then be held valid from the date it became effective. n43 Enforcement of the statute followed without congressional action. n44 When this enforcement was challenged, the Municipal Court of Appeals for the District of Columbia in Jawish v. Morlet n45 held that the decision in West Coast Hotel had had the effect of making the statute enforceable. The court observed that previous opinions addressing the revival issue proceed on the principle that a statute declared unconstitutional is void in the sense that it is inoperative or unenforceable, but not void in the sense that it is repealed or abolished; that so long as the decision stands the statute is dormant but not dead; and that if the decision is reversed the statute is valid from its first effective date. n46 The court declared this precedent sound since the cases were "in accord with the principle "that a decision of a court of appellate jurisdiction overruling a former decision is retrospective in its operation, and the effect is not that the former decision is bad law but that it never was the law.' " n47 Adkins was thus, and had always been, a nullity. The court acknowledged that, after Adkins, it had been thought that the District of Columbia's minimum wage statute was unconstitutional. As the court put it, " "Just about everybody was fooled.' " n48 Nonetheless, the court's view was that since the minimum wage law had always been valid, although for a period judicially unenforceable, there was no need to reenact it. n49 Almost all other courts that have addressed the issue of whether a statute that has been found unconstitutional can be revived have reached the same result as the Jawish court, using a similar formalistic [\*1914] analysis. n50 The sole decision in which a court adopted the nonrevival position is Jefferson v. Jefferson, n51 a poorly reasoned decision of the Louisiana Supreme Court. The plaintiff in Jefferson sought child support and maintenance from her husband. She prevailed at the trial level; he filed his notice of appeal one day after the end of the filing period established by the Louisiana Uniform Rules of the Court of Appeals. The Court of Appeals rejected his appeal as untimely, even though the Louisiana Supreme Court had previously found that the applicable section of the Uniform Rules violated the state constitution. One of Ms. Jefferson's arguments before the state Supreme Court was that that court's previous ruling had been erroneous and that the rules should therefore be revived. In rejecting this claim and in finding for the husband, the Court stated: Since we have declared the uniform court rule partially unconstitutional, it appears to be somewhat dubious that we have the right to reconsider this ruling in the instant case as counsel for the respondent judges urges us to do. For a rule of court, like a statute, has the force and effect of law and, when a law is stricken as void, it no longer has existence as law; the law cannot be resurrected thereafter by a judicial decree changing the final judgment of unconstitutionality to constitutionality as this would constitute a reenactment of the law by the Court - an assumption of legislative power not delegated to it by the Constitution. n52 The Louisiana Court thus took a mechanical approach to the revival question. According to its rationale, when a statute is found unconstitutional, it is judicially determined never to have existed. Revival therefore entails judicial legislation and thereby violates constitutionally mandated separation of powers: because the initial legislative passage [\*1915] of the bill has no legitimacy, the bill's force is considered to be purely a creature of judicial decision-making. Jefferson has little analytic appeal. Its view of the separation of powers doctrine is too simplistic. Contrary to the Jefferson rationale, a "revived" law is not the pure product of judicial decision-making. It is, instead, a law that once gained the support of a legislature and that has never been legislatively repealed. Its legitimacy rests on its initial legislative authorization. Moreover, the view that a statute that has been found unconstitutional should be treated as if it never existed may have had some support in the early case law, but it has been clearly rejected by the Supreme Court. Instead of treating all statutes that it has found unconstitutional as if they had never existed, the Court has recognized a range of circumstances in which people who rely on an overturned decision are protected. Indeed, as will be developed, the doctrine of prospective overruling evolved to shield from harm those who relied on subsequently overruled judicial decisions. n53 In short, the one case in which there was a holding that a statute.

# Off

#### The 50 state governments should:

#### -establish a uniform Renewable Portfolio Standard requiring that twenty percent of electricity produced comes from renewable sources.

#### -establish a feed-in tariff that creates long-term purchase contracts for new qualifying facilities that use wind and solar power for energy production to ensure a reasonable rate of return.

#### States can do feed-in tariffs

[**Sawin**](http://www.sciencedirect.com.monstera.cc.columbia.edu:2048/science?_ob=ArticleURL&_udi=B6VSS-4NJP9CG-1&_user=18704&_coverDate=05%2F31%2F2007&_alid=772549448&_rdoc=27&_fmt=high&_orig=search&_cdi=6270&_sort=d&_docanchor=&view=c&_ct=67&_acct=C000002018&_version=1&_urlVersion=0&_userid=18704&md5=27e009d5980baf378f87e6ae10344e08#bvt2) **7** – Director of the Energy and Climate Change Program at the Worldwatch Institute, an independent org in D.C.

(Janet L.“If the Shoe FITs: Using Feed next term-in previous term Tariffsnext term to Meet U.S. Renewable Electricity Targets” The Electricity Journal, Volume 20, Issue 4, May 2007, Pages 73-86)

A second possibility is that states (or utilities) could use fixed-price tariffs to contract for utility-scale renewable energy generators, as suggested in California. Long-term contracts for bundled RECs and electricity are already in use in several regulated states, and have emerged in Texas as well. Further, NYSERDA procures RECs for large-scale generators through long-term contracts in New York State, and Connecticut's Project 100 Initiative offers 10-year, long-term contracts for up to 100 MW of renewable energy projects. Currently, all of these long-term contracts must be competed for or negotiated, rather than awarded automatically. Nevertheless, it is possible that states with existing long-term contracting could shift to more transparent and standard long-term contracts similar to feed-in tariffs.

#### The CP codifies status quo RPS trends to integrate coordinate with other states – it will rapidly spur renewable integration

**Byrne, 7** –Center for Energy and Environmental Policy (John, “American policy conflict in the greenhouse: Divergent trends in federal, regional, state, and local green energy and climate change policy” Energy Policy Volume 35, Issue 9, September 2007, science direct)

In addition to the creation of voluntary investments in renewables, a number of states have mandated that utilities supply a baseline amount of green power to their customers. Known as Renewable Portfolio Standards (RPS), these policies establish renewable energy procurement quotas for utilities according to a schedule typically running for 10–15 years. As of February 2007, 23 states and the District of Columbia have enacted renewable portfolio standards, while another fourteen states are considering RPS regulation (Fig. 3). No two RPS laws are alike and some policy regimes have performed better than others (van der Linden et al., 2005 N.H. van der Linden, M.A. Uyterlinde, C. Vrolijk, L.J. Nilsson, J. Khan and K. Åstrand et al., Review of International Experience with Renewable Energy Obligation Support Mechanisms, Energy research Centre of the Netherlands, Petten, Netherlands (2005).van der Linden et al., 2005). Generally speaking, however, there is a distinct trend towards stronger RPS policies and regional market integration. Only two states have voluntary standards—Illinois and Vermont—and both are now considering RPS mandates (DSIRE, 2007).Most states with RPS policies in place for three or more years have strengthened their laws, accelerated compliance schedules, or proposed new targets (Rickerson, 2005). For example, in 2006 New Jersey accelerated its compliance schedule and increased its target to 20% by 2020 (DSIRE, 2007). Utilities in Wisconsin over-complied with the initial 2.2% by 2012 goal, and in 2006 the state increased its target to 10% by 2015 (Governor's Task Force, 2004). California has accelerated its RPS schedule partly because one utility, Southern California Edison, is already close to the 20% requirement with 17.7% of its supply derived from renewable energy (California Public Utilities Commission, 2006). As a result, the state has revised its RPS schedule from 20% by 2017 to 20% by 2010 (Doughman et al., 2004).While Texas initially accounted for most of the renewable MW capacity installed in RPS markets (Petersik, 2004), renewable energy installations are now becoming more widely distributed as new and strengthened RPS regimes have appeared across the American landscape. The Union of Concerned Scientists (2006a) projects over 44,900 MW of new renewable capacity will be added to the grid by 2020 to satisfy current RPS mandates (see also Byrne et al., 2005b).Another sign of the growing maturity and momentum of state RPS policies is the trend toward regional coordination and integration. In order to encourage supply diversity, almost every state RPS policy in the US permits its utilities to procure renewable resources from neighboring states. As a result, markets for tradable renewable energy credits (RECs)5 have emerged to facilitate compliance in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, Texas and Washington, DC. The existence of a solar PV “carve out” requirement in New Jersey's RPS has created solar-specific REC prices above $200/megawatt-hour (MWh) (Holt and Bird, 2005, p. 2; Evolution Markets LLC, 2006), and similar requirements in Pennsylvania, New York and Washington, DC could drive solar PV market growth region wide. To support these markets, regional authorities have established credit-tracking systems in the Northeast, Mid-Atlantic, and Texas. Similar systems are also under development for the states of the West and the upper Midwest (Porter and Chen, 2004; Wingate and Lehman, 2003 M. Wingate and M. Lehman, The Current Status of Renewable Energy Certificate Tracking Systems in North America, Center for Resource Solutions, San Francisco, CA (2003) (Prepared for the Commission for Environmental Cooperation).Wingate and Lehman, 2003). These systems facilitate RPS compliance and encourage non-RPS states to develop resources for participation in regional RPS markets. To date, RPS has proven to be the most successful tool used by states in the US to realize rapid development of renewable energy options.

# Off

#### Top of the docket- committee takes it up when they return in April, floor debate by late spring

Nocera 3/21

[Kate Nocera, Politico writer, 3/21/13,Chuck Schumer: ‘Gang of 8’ close to immigration deal

<http://www.politico.com/story/2013/03/chuck-schumer-gang-of-8-immigration-reform-deal-89200.html?hp=t2_3>, uwyo//amp]

With activists and lawmakers anxious to see an immigration bill, Sen. Chuck Schumer and other members of the Gang of Eight seemed optimistic on Thursday that a deal was within reach. The New York Democrat told Hispanic media outlets Thursday he was confident a deal would be reached in the days ahead, although the group is unlikely to be unveiled before the end of the Easter recess. “About 90 percent of the issues, including the path to citizenship, are settled,” Schumer said, adding that the group was meeting “hours” a day, and he was putting “more time into this than any other single issue.” He expects the Senate Judiciary Committee to take up the bill in April before floor debate in the late spring or early summer.

#### Obama pc key and will pass now- Hard line key to defeat Republicans

Spetalnick & Crowan Feb. 4th

[Matt Spetalnick and Richard Cowan, Reuters, February 4th, 2013, Obama, aides seek momentum on immigration reform this week, <http://www.reuters.com/article/2013/02/04/us-usa-immigration-idUSBRE9130V620130204>, uwyo//amp]

The flurry of activity, including new moves in Congress, comes amid disagreement between the Democratic president and Republicans over the question of citizenship for illegal immigrants, an obstacle that could make it hard to reach a final deal on sweeping legislation. Obama is expected to use his February 12 State of the Union speech to Congress to keep the heat on Republicans, who appear more willing to accept an immigration overhaul after they were chastened by Latino voters' rejection in the November election. But differences have emerged since Obama and a bipartisan Senate working "group of eight" rolled out their proposals last week aimed at the biggest U.S. immigration revamp in decades. Obama wants to give America's 11 million illegal immigrants a clear process to achieve citizenship, including payment of fines, criminal background checks and going to the "back of the line" behind legal applicants, and has vowed to introduce his own bill if Congress fails to act in a timely fashion. But top Republicans want to defer citizenship until the county's borders are deemed more secure - a linkage that Obama and most of his fellow Democrats would find hard to accept. Obama's aides are confident the president has enough leverage to avoid giving ground - not least because they believe that if the reform effort fails in Congress, voters are more likely to blame the Republicans and they would suffer in the 2014 midterm congressional elections.

#### Skilled worker access will determine the future of the biotech industry

**Dahms 3**, executive director of the California State University System Biotechnology Program (CSUPERB); chair of the Workforce Committee, Biotechnology Industry Organization; and a member of the ASBMB Education and Professional Development Committee, (A. Stephen, “ Foreign Scientists Seen Essential to U.S. Biotechnology,” in Pan-Organizational Summit on the U.S. Science and Engineering Workforce: Meeting Summary, National Academy of Sciences, <http://www.ncbi.nlm.nih.gov/bookshelf/picrender.fcgi?book=nap10727&blobtype=pdf>)

The scarcity of skilled technicians is seen by the biotechnology industry in the U.S. and Canada as one of its most serious challenges. The success of this industry is dependent on the quality of its workforce, and the skills and talents of highly trained people are recognized as one of the most vital and dynamic sources of competitive advantage. The U.S. biotechnology industry workforce has been growing 14 to 17 percent annually over the last six years and is now over 190,000 and conservatively estimated to reach 500,000 by 2012. Despite efforts by the industry to encourage U.S. institutions to increase the production of needed specialists, a continual shortfall in the needed expertise requires access to foreign workers. Foreign workers with unique skills that are scarce in the U.S. can get permission to stay in the U.S. for up to six years under the H1B classification, after which they can apply for permanent resident status. There are currently over 600,000 foreign workers in this category across all industries, and they are critical to the success and global competitiveness of this nation. Of these H-1B visa holders, 46 percent are from India and 10 percent are from China, followed in descending order by Canada, Philippines, Taiwan, Korea, Japan, U.K., Pakistan, and the Russian Federation. Our annual national surveys have demonstrated that between 6 and 10 percent of the biotechnology workforce have H-1B visas. The constant shortfall in specialized technical workers that has been experienced by the biotechnology industry over the past six years has been partially alleviated by access to talented individuals from other nations. However, the industry’s need is sufficient to justify a 25 percent increase in H-1Bs in 2004. Biotechnology industry H-1B visa holders are mainly in highly sought after areas such as analytical chemistry, instrumentation specialization, organic synthesis, product safety and surveillance, clinical research/biostatistics, bio/pharm quality, medicinal chemistry, product scale-up, bioinformatics and applied genomics, computer science, cheminformatics, pharmacokinetics, and pharmacodynamics. Forty percent of H-1B foreign workers are at the Ph.D. level, 35 percent M.S., 20 percent B.S., and 5 percent M.D. In comparison, the U.S. biotechnology industry technical workforce is estimated to be 19 percent Ph.D., 17 percent M.S., 50 percent B.S., and 14 percent combined voc-ed/ community college trained. These and other survey data by industry human resource groups clearly show that the H-1B worker skills match the most pressing employment needs of the biotechnology industry. The data demonstrate that maintaining a reasonably-sized H-1B cap is critical to the industry. Although the national annual H-1B visa cap was raised from 115,000 to 195,000 in the 106th Congress via S. 2045, the cap has already been exceeded. The increased cap remains in effect until 2003 and efforts are under way to ensure that it remains high. The Third Annual National Survey of H-1Bs in the biotechnology industry found that 80 percent are from U.S. universities, and 85 percent of those eventually get green cards. Companies now spend, on average, $10,200 in processing fees and legal expenses to obtain each green card, an estimated cost to the industry of more than $150 million over the past 5 years. In the wake of the 9/11 World Trade Center attacks, debate has been focused on more restrictions on foreign students, a development that would have a severe impact upon the competitiveness of the U.S. biotechnology industry. Clearly, the H-1B route provides a temporary solution to shortages in the national and domestic biotechnology labor pools, shortages mirroring the inadequate production of appropriately trained U.S. nationals by U.S. institutions of higher learning. The reality is that universities have inadequate resources for expanding the training pipeline, particularly in the specialized areas of the research phase of company product development. Efforts should be directed toward influencing greater congressional and federal agency attention to these important topics.

#### Solves bioterror

**Bailey, 1** [Ronald, award-winning science correspondent for Reason magazine and Reason.com, where he writes a weekly science and technology column. Bailey is the author of the book Liberation Biology: The Moral and Scientific Case for the Biotech Revolution (Prometheus, 2005), and his work was featured in The Best American Science and Nature Writing 2004. In 2006, Bailey was shortlisted by the editors of Nature Biotechnology as one of the personalities who have made the "most significant contributions" to biotechnology in the last 10 years. 11/7/1, “The Best Biodefense,” Reason, <http://reason.com/archives/2001/11/07/the-best-biodefense>]

But Cipro and other antibiotics are just a small part of the arsenal that could one day soon be deployed in defending America against biowarfare. Just consider what’s in the pipeline now that could be used to protect Americans against infectious diseases, including bioterrorism. A Pharmaceutical Manufacturers and Research Association survey found 137 new medicines for infectious diseases in drug company research and development pipelines, including 19 antibiotics and 42 vaccines. With regard to anthrax, instead of having to rush a sample to a lab where it takes hours or even days to culture, biotech companies have created test strips using antibody technologies that can confirm the presence of anthrax in 15 minutes or less, allowing decontamination and treatment to begin immediately. Similar test strips are being developed for the detection of smallpox as well. The biotech company EluSys Therapeutics is working on an exciting technique which would "implement instant immunity." EluSys joins two monoclonal antibodies chemically together so that they act like biological double-sided tape. One antibody sticks to toxins, viruses, or bacteria while the other binds to human red blood cells. The red blood cells carry the pathogen or toxin to the liver for destruction and return unharmed to the normal blood circulation. In one test, the EluSys treatment reduced the viral load in monkeys one million-fold in less than an hour. The technology could be applied to a number of bioterrorist threats, such as dengue fever, Ebola and Marburg viruses, and plague. Of course, the EluSys treatment would not just be useful for responding to bioterrorist attacks, but also could treat almost any infection or poisoning. Further down the development road are technologies that could rapidly analyze a pathogen’s DNA, and then guide the rapid synthesis of drugs like the ones being developed by EluSys that can bind, or disable, segments of DNA crucial to an infectious organism's survival. Again, this technology would be a great boon for treating infectious diseases and might be a permanent deterrent to future bioterrorist attacks. Seizing Bayer’s patent now wouldn’t just cost that company and its stockholders a little bit of money (Bayer sold $1 billion in Cipro last year), but would reverberate throughout the pharmaceutical research and development industry. If governments begin to seize patents on the pretext of addressing alleged public health emergencies, the investment in research that would bring about new and effective treatments could dry up. Investors and pharmaceutical executives couldn’t justify putting $30 billion annually into already risky and uncertain research if they couldn’t be sure of earning enough profits to pay back their costs. Consider what happened during the Clinton health care fiasco, which threatened to impose price controls on prescription drugs in the early 1990s: Growth in research spending dropped off dramatically from 10 percent annually to about 2 percent per year. A far more sensible and farsighted way to protect the American public from health threats, including bioterrorism, is to encourage further pharmaceutical research by respecting drug patents. In the final analysis, America’s best biodefense is a vital and profitable pharmaceutical and biotechnology industry.

#### Extinction

Steinbrenner, 97

John Steinbrenner, Senior Fellow – Brookings, Foreign Policy, 12-22-1997, Lexis

Although human pathogens are often lumped with nuclear explosives and lethal chemicals as potential weapons of mass destruction, there is an obvious, fundamentally important difference: Pathogens are alive, weapons are not. Nuclear and chemical weapons do not reproduce themselves and do not independently engage in adaptive behavior; pathogens do both of these things. That deceptively simple observation has immense implications. The use of a manufactured weapon is a singular event. Most of the damage occurs immediately. The aftereffects, whatever they may be, decay rapidly over time and distance in a reasonably predictable manner. Even before a nuclear warhead is detonated, for instance, it is possible to estimate the extent of the subsequent damage and the likely level of radioactive fallout. Such predictability is an essential component for tactical military planning. The use of a pathogen, by contrast, is an extended process whose scope and timing cannot be precisely controlled. For most potential biological agents, the predominant drawback is that they would not act swiftly or decisively enough to be an effective weapon. But for a few pathogens - ones most likely to have a decisive effect and therefore the ones most likely to be contemplated for deliberately hostile use - the risk runs in the other direction. A lethal pathogen that could efficiently spread from one victim to another would be capable of initiating an intensifying cascade of disease that might ultimately threaten the entire world population. The 1918 influenza epidemic demonstrated the potential for a global contagion of this sort but not necessarily its outer limit.

# Warming

**Case can’t solve: solar is dirty using fossil fuels and toxic wastes in its supply chain**

**Dickerson 9**

[Marla, former renewable energy reporter for the LA Times, now business editor for the LA Times, “Solar energy's darker side stirs concern,” January 14, 2009, <http://articles.latimes.com/2009/jan/14/business/fi-notsogreen14> //uwyo-baj]

Everybody loves solar, the shiny superstar of renewable energy. But scratch the surface of the manufacturing process and the green sheen disappears. Vast amounts of **fossil fuels are used to produce and transport panels. Solar cells contain toxic materials. Some components can't be easily recycled. That has** some **environmentalists worried about a new tidal wave of hazardous waste headed for the nation's landfills when panels** eventually **wear ou**t. A report to be released today by the Silicon Valley Toxics Coalition warns that the industry and lawmakers need to set policies now to ensure that a clean technology doesn't leave a dirty legacy. "**You can't just call your product green and close your eyes to what's happening in the supply chain,"** said Sheila Davis, executive director of the San Jose nonprofit group that pushes for green practices in the technology sector. **"The solar energy industry is running into** some of the same **problems . . . we've seen in** the **electronics** industry," **whose waste is polluting U.S. landfills and contaminating groundwater with harmful substances such as mercury and chromium**, Davis said. Solar energy supplies less than 1% of the nation's electricity at present. But the technology is poised for explosive growth. Much of the world's production is centered in Asia, where Davis said some disturbing trends were emerging. China is major producer of polycrystalline silicon, a key component of solar cells. **The Washington Post** last year **documented** how at least one **Chinese producer** was **dumping a toxic byproduct** from that manufacturing process **on nearby farmland**. **Experts suspect** that **firms in other developing countries are taking similar shortcuts. Silicon isn't the only conductor that can be used to convert sunlight to electricity**. Companies are developing cells using other materials. **Still,** virtually **all of them utilize hazardous chemicals that pose potential risks to workers and the environment, according to the coalition's report.** Davis said **developing benign substitutes for** some of the most **dangerous materials was essential for the solar industry to be truly sustainable**. Making the panels is just the beginning. **Planning needs to begin now on what to do with millions of these heavy modules as they wear out in 20** to 25 **years or are replaced with better technology**, environmentalists say.

**TOXIC WASTE THREATENS THE SURVIVAL OF THE PLANET**

Deborah **Katz**, activist, Toxic Waste Threatens Communities, 19**98**, [www.resistinc.org/newsletter/issues/1998/01/art1.html](http://www.resistinc.org/newsletter/issues/1998/01/art1.html), accessed 1/5/05.

Toxic contamination of the planet threatens human survival. In our time, we will detennine whether there is clean air to breath, water to drink and places to live for our children and theirs. Industrial technology-with its shadow of pollution-overwhelms us and threatens the democratic structures on which we depend. The scientific community and the nuclear industry undermine citizens' confidence in their ability to understand nuclear power and its effects. Many people have withdrawn from the process, potentially allowing vital decisions to be dictated outside of democratic safeguards. This "meltdown of democracy" is exemplified in the atomic power industry.

**Solar Power produces more GHG emissions than conventional fossil fuel energy systems**

**Abbasi ’12**

[Tasneem, 9/12/12, “Is the Use of Renewable Energy Sources an Answer to the Problems of Global Warming and Pollution?” Critical Reviews in Enviornmental Science and Technology http://www.tandfonline.com.libproxy.uwyo.edu/doi/pdf/10.1080/10643389.2010.498754//Wyo-PS]

**Harte and Jassby** (1978) c**onducted an analysis of pollution emissions associated with the material requirements for central direct solar receiver systems by comparing these emissions with those of an oil- or coal-burning plant** producing the same average power, and operating over the lifetime of

the solar plant. The comparison shows that, for those pollutants considered environmentally harmful, the emissions associated with the central receiver system are lower by about an order of magnitude as compared with an oilor coal-fired plant. **The findings of later studies are less favorable toward central solar systems** (Abbasi, 2001a; Abbasi et al., 2002; Bezdek, 1993). In **these studies the impact of GHG emissions, environmental degradation, and human health and safety of solar energy systems have been compared with the nuclear and fossil fuel energy options.** **After accounting for all direct and indirect aspects of the different energy production and delivery systems, the studies indicated the following** Given present technologies, on a standardized energy unit basis, **solar energy systems** may initially **cause more GHG emissions and environmental degradation than do conventional nuclear and fossil fuel energy systems**. 2. An ambitious program to utilize **solar energy systems** in place of nuclear and fossil-fuel systems could, for the next four or five decades, **actually increase environmental degradation.** In addition, **the production of materials for these technologies involves hazardous substances that must be handled cautiously to avoid environmental damage**. 3. **In comparing solar energy systems with the conventional alternatives**, it is important to recognize the substantial costs, hazardous wastes, and land-use issues associated with solar technologies. 4. Based on risk perceptions and present technologies, the health and safety risks of large-scale centralized solar energy systems may be substantially larger than those associated with some fossil and nuclear energy resource options. Of the different types of materials that can be used to make PV cells cadmium telluride is the least expensive (Zweibel et al., 2007) and is likely to be favored for this reason, especially in less economically advanced countries. But it is highly hazardous.

**Solar Requires Backup Generation- Can’t Solve Warming**

**V. Diakov, 12**

W. Short, and B. Gilchrist Presented at the 2012 World Renewable Energy Forum Denver, Colorado “The Effect of Large Scale Transmission Limitations on Renewable Energy Load Matching for the Western U.S.”, <http://www.nrel.gov/docs/fy12osti/54688.pdf>, accessed 8-8-12,WYO/JF

Although various technical challenges connected with wind energy [2,3] are being solved, claims have been made that, due to variability, **solar and wind power technologies must be heavily, if not completely, backed up with conventional generation capability** and/or storage; **in other words, the capacity value** (i.e. how much conventional generation capacity can be replaced by a unit of renewable generation capacity) **of wind and solar is low** [4]. We employ new solar and wind resource data at the hourly level that are available for tens of thousands of sites across the country. **These data allow us to estimate the value of spreading the deployment of wind and solar plants out to take advantage of the fact that solar and wind availabilities vary geographically, not just temporally.**

**Solar can’t meet baseline—coal and nuclear will fill in**

**Goffman 8**

[Goffman, Ethan: graduate degree in Natural Resources. "Why Not the Sun? Advantages of and Problems with Solar Energy." *ProQuest*. (2008): 7. Web. 10 Sep. 2012. <http://www.csa.com/discoveryguides/solar/review.pdf>. //Wyo-BF]

Solar Cells **A major disadvantage of** both wafer-based and thin film **solar energy is intermittency.** The sun does not shine at night, and is diminished by overcast skies and storms. Energy from solar cells therefore cannot be counted on at all times. **This means that decentralized energy from solar cells cannot supply** what the energy industry calls **baseline power**, which supplies a constant energy need. Currently **coal plants are the major supplier of base-load electricity, while nuclear is also excellent at this task** (although expensive to bring on-line). For peak demand times, as well as sudden surges (such as during a heat wave when air condi-tioners work overtime) power must be added. The energy needed for this part-time demand is called ―intermediate-load electricity, as opposed to the base-load electricity that is needed twenty-four hours a day‖ (Bradford 13). Natural gas is currently the favorite method for supply-ing intermediate-load electricity, although renewable sources, such as solar and wind, are well suited to the task. Intermittency is actually less of a problem for solar cells than for wind power. This is because solar tends to be most available during times of peak demand, particularly working hours: Inter-mediate load power, ―which represents some 30 percent of all the electricity supply‖ must be provided primarily during daylight hours. (Bradford 130) This is fortuitous for solar energy, since, ―in the middle of the afternoon when the sun is at its peak and solar panels are producing at their optimum, demand and pricing for electricity also peaks‖ (Canberra Times). In addition, solar and wind can complement each other, since times of low sunshine are often excellent for wind power, notably in winter. Still, **the use of solar cells and wind power will be limited until more efficient storage methods can be developed to conserve energy when it‘s generated and use it when it‘s most needed.** Brad-ford explains that ―**there are potential technical limits to widespread adoption of intermittent sources of electricity beyond 15 percent of total grid capacity without the added inclusion of en-ergy storage solutions**‖ (132) (other recent studies put the number at 20% for wind power). Cur-rently, batteries are the method of choice for storing solar energy, although these need to be re-placed regularly. Solid oxide fuel cells employing hydrogen technology show great promise, but need to be further developed (see http://www.csa.com/discoveryguides/fuecel/overview.php). For hydrogen storage to fulfill its promise it needs to derive its power from nonpolluting sources, such as electrolysis powered by solar energy. (Bradford 87-88)

**IPCC predictions fail and rely on faulty computer models – even if they win that the earth is warming, the rate is too slow to trigger their impacts**

**Bast & Taylor ‘11**

[Joseph and James, CEO of the Heartland Institute, author of Rebuilding America’s Schools, Why We Spend Too Much on Health Care, Eco-Sanity: A Common-Sense Guide to Environmentalism, Education & Capitalism, Climate Change Reconsidered, and The Patriot’s Toolbox, and managing editor of Environment & Climate News, Senior Fellow for The Heartland Institute, bachelor degree from Dartmouth College and law degree from the Syracuse University College of Law, “Global Warming: Not a Crisis,” The Heartland Institute, 8.2.11., http://heartland.org/ideas/global-warming-not-crisis) //wyo-hdm]

How Much Warming? **NASA satellite data recorded since 1979 allow us to check the accuracy of claims that the past three decades have been warming at an alarming rate. The data show a warming rate of 0.123 degrees C per decade.** **This is considerably less than what land-based temperature stations report during the same time period, and which are relied on by the IPCC** (Christy, 2009). **If the Earth’s temperature continues to rise at the rate of the past three decades, the planet would see only 1.23 degrees C warming over the course of an entire century.** Most climate scientists, even “skeptics,” acknowledge that rising CO2 concentrations in the atmosphere would, all other things held constant, cause some small amount of warming. Alarmists claim that small amount will trigger increases in the amount of moisture in the atmosphere, which in turn will cause further warming. But other scientists have found no evidence of rising levels of moisture in those areas of the atmosphere where the models claim it should be found. Without this “amplification,” there is no global warming crisis (Singer, 2011). **While the global climate warmed slightly during the 1980s and 1990s, it has not warmed at all since 2000, and there is some evidence that a cooling trend has begun** (Taylor, 2007). **This contradicts the predictions of the IPCC and poses a challenge to the theory that CO2 concentrations play a major role in global temperature trends. It confirms the views of many less-politicized climate scientists who acknowledge that the global climate is always warming or cooling** (Michaels, 2005; Christy, 2006). **The scientific community’s lack of certainty about future climate trends is rooted in the shortcomings of computer models. These models are the centerpiece of the IPCC’‘s reports, yet it is widely recognized that they fail to account for changes in precipitation, water vapor, and clouds that are likely to occur in a warmer world.** It is a case of “garbage in, garbage out**.” If we cannot predict how much warming will occur, how can we claim that continued human emissions of greenhouse gases is harmful?**

**Historic warming trends occurred without CO2 emissions- roman era proves**

**Waugh ‘12**

[Rob, Columnist Archive for MailOnline, “Tree-rings prove climate was WARMER in Roman and Medieval times than it is now - and world has been cooling for 2,000 years”, 11.7.12., Mail Online, <<http://www.dailymail.co.uk/sciencetech/article-2171973/Tree-ring-study-proves-climate-WARMER-Roman-Medieval-times-modern-industrial-age.html>> //wyo-hdm]

**Rings in fossilised pine trees have proven that** the world was much warmer than previously thought - **and** the earth **has been slowly COOLING for 2,000 years. Measurements stretching back to 138BC prove that the Earth is slowly cooling due to changes in the distance between the Earth and the sun.** The **finding may force scientists to rethink current theories of the impact of global warming. It is the first time that researchers have been able to accurately measure trends in global temperature over the last two millennia.** Over that time, the world has been getting cooler - and **previous estimates, used as the basis for current climate science, are wrong**. Their findings demonstrate that this trend involves a cooling of -0.3°C per millennium due to gradual changes to the position of the sun and an increase in the distance between the Earth and the sun. ‘This figure we calculated may not seem particularly significant,’ says Esper, ‘however, it is also not negligible when compared to global warming, which up to now has been less than 1°C. 'Our **results suggest that the large-scale climate reconstruction shown by the** Intergovernmental Panel on Climate Change (**IPCC) likely underestimate this long-term cooling trend over the past few millennia.’** **The finding was based on semi-fossilised tree rings found in Finnish** lapland. **Professor Dr. Jan Esper's group at the Institute of Geography at JGU used tree-ring density measurements from sub-fossil pine trees** originating from Finnish Lapland **to produce a reconstruction reaching back to 138 BC**. **In so doing, the researchers have been able for the first time to precisely demonstrate that the long-term trend over the past two millennia has been towards climatic cooling.** ‘We found that previous estimates of historical temperatures during the Roman era and the Middle Ages were too low,’ says Esper. ‘Such findings are also significant with regard to climate policy, as they will influence the way today's climate changes are seen in context of historical warm periods.’ **The annual growth rings in trees are the most important witnesses over the past 1,000 to 2,000 years as they indicate how warm and cool past climate conditions were.**

# Competitiveness

**They raise prices; causes more energy poverty-turns the 1AC**

**Melhuish 09**

(Molly Melhuish, Domestic Energy Users Network, “How does the Emissions Trading Scheme impact on electricity prices?” 11/25/09 http://issues.co.nz/fairelectricity/How+does+the+Emissions+Trading+Scheme+impact+on+electricity+prices%3F//wyoccd)

**So what does the ETS mean** for households? **Essentially, electricity prices will rise** by1c/kWh from July 2010 and by another cent in Jan 2013. **At the same time, petrol prices will rise by 3.5c/litre, then by 7c from 2013. This is a serious concern for low income households**, as Jeanette Fitzsimons has pointed out. **“Power and fuel are a much higher proportion of family income for those on low incomes than for high earners**. (Lower income households are) **more likely, statistically, to live in cold damp houses on the edge of cities where the only way to get to work is my car and the only affordable car is a gas guzzler**,” she said earlier this year. Another key point in the policy is that 8000 more low-income homes will be insulated – an increase of 7% on the existing warm homes programme. Is this a good deal? **While the policy shows attempts to find a balance between consideration for climate change and the interests of the economy, any price increase is not a good deal for households who are already struggling to pay their electricity bills**. **Over time, the price rises have the potential to exacerbate energy poverty** for those households that cannot access subsidized insulation, or afford to buy more energy-efficient appliances.

**FITs bad for the US; over-generous prices, destroy markets, and will either cost ratepayers, or cost jobs**

**Barclay, 10**

[Richard A, Ph.D., Director of Research and Policy Development at the Michigan Electric Cooperative Association, “Feed-In Tariffs: Too Much of a Good Thing?” Management Quarterly, Summer 2010, ProQuest, //uwyo-baj]

The Important Lessons From The European Experience The experience of implementation of FITs in Germany, Spain and other European countries, have demonstrated that **FITs may not be appropriate for implementation in the United States** for the following three reasons. **1. Predicted prices over 20 years are likely to be incorrect and too generous, 2. Quotas do not work well and can cause a bubble that destroys markets, and 3. Having created new vested interests with too-generous FITs, reducing the impact on ratepayers without losing the jobs newly created is politically difficult.** Indeed, **feed-in tariffs can very easily be analogous to the subprime mortgage rates that were encouraged by Congress so as to encourage home ownership for everyone. Yet implementation of the policy had disastrous results. "Super-prime prices" for renewable energy development could lead to a similar result: too much of a good thing.**

**Solar FITs collapse the international market, Spain and Germany prove**

**Barclay, 10**

[Richard A, Ph.D., Director of Research and Policy Development at the Michigan Electric Cooperative Association, “Feed-In Tariffs: Too Much of a Good Thing?” Management Quarterly, Summer 2010, ProQuest, //uwyo-baj]

Are They Stable? **Germany and Spain** have been the two **most frequently cited examples of successful feed-in tariffs**. Yet rather than stability, both countries **have experienced increasingly frequent changes to the tariffs, the categories to which they apply and collapsing markets.** Germany created the Electric Feed Law in 1991. It proved to be generally ineffective, with the exception of wind energy.18 Major changes were enacted in the Renewable Energy Law (EEG) in 2000, and significant changes were again made in 2004. There have been two changes since, and one proposed. Yet, as noted by The Economist, ...**the country that pioneered [FITs] seems unable to agree on a formula for them that is generous enough to spur investment without being so lavish that it overburdens consumers**.19 **A megawatt** (MW) **cap on the total capacity that can be installed is often recommended in order to mitigate the total subsidy costs, and/or be a hedge in case the FITs are too high**. This might be seen as a tacit admission that the **impacts of FITs are unpredictable**. **Caps can also create an economic bubble that is devastating when it collapses.**20 **Feed-in tariffs in Spain can be as high as 10 times the cost of coal production**.21 These schemes create serious "bubble" potential, as Spain is now discovering. ...**Even with subsidy schemes leaving the mean sale price of electricity generated from solar photovoltaic power seven times higher than the mean price of the pool, solar failed even to reach 1% of Spain's total electricity production in 2008.**22 Spain changed their solar FIT in 2004 and changed the sizes to which applied from 1OkW to 10MW in 2007.23 In 2007, they limited it to the first 400 MW of capacity installed annually. The **solar FIT was so attractive that companies rushed to get in on the deal and purchased 1,700 MW of solar panels in one year.**24 **Spanish policymakers responded by slashing the FITs up to 38% in 2008. It "created a bubble with nearly disastrous consequences for the global solar industry**"25 **and "led to a near standstill of new installation in 2009**."**26 This left surplus panels, sudden price drops, and the international market collapsed.** **German markets have been similarly erratic**. Spain is currently considering reduction of 40% and the possibility of retroactively revising existing tariffs downward.27,28

#### Competitiveness not key to heg

Brooks and Wohlforth, 8

[Stephen G. Brooks is Assistant Professor and William C. Wohlforth is Professor in the Department of Government at Dartmouth College, “World out of Balance, International Relations and the Challenge of American Primacy,” p. 32-35]

 American primacy is also rooted in the county's position as the world's leading technological power. The United States remains dominant globally in overall R&D investments, high-technology production, commercial innovation, and higher education (table 2.3). Despite the weight of this evidence, elite perceptions of U.S. power had shifted toward pessimism by the middle of the first decade of this century. As we noted in chapter 1, this was partly the result of an Iraq-induced doubt about the utility of material predominance, a doubt redolent of the post-Vietnam mood. In retrospect, many assessments of U.S. economic and technological prowess from the 1990s were overly optimistic; by the next decade important potential vulnerabilities were evident. In particular, chronically imbalanced domestic finances and accelerating public debt convinced some analysts that the United States once again confronted a competitiveness crisis.23 If concerns continue to mount, this will count as the fourth such crisis since 1945; the first three occurred during the 1950s (Sputnik), the 1970s (Vietnam and stagflation), and the 1980s (the Soviet threat and Japan's challenge). None of these crises, however, shifted the international system's structure: multipolarity did not return in the 1960s, 1970s, or early 1990s, and each scare over competitiveness ended with the American position of primacy retained or strengthened.24 Our review of the evidence of U.S. predominance is not meant to suggest that the United States lacks vulnerabilities or causes for concern. In fact, it confronts a number of significant vulnerabilities; of course, this is also true of the other major powers.25 The point is that adverse trends for the United States will not cause a polarity shift in the near future. If we take a long view of U.S. competitiveness and the prospects for relative declines in economic and technological dominance, one takeaway stands out: relative power shifts slowly. The United States has accounted for a quarter to a third of global output for over a century. No other economy will match its combination of wealth, size, technological capacity, and productivity in the foreseeable future (tables 2.2 and 2.3). The depth, scale, and projected longevity of the U.S. lead in each critical dimension of power are noteworthy. But what truly distinguishes the current distribution of capabilities is American dominance in all of them simultaneously. The chief lesson of Kennedy's 500-year survey of leading powers is that nothing remotely similar ever occurred in the historical experience that informs modern international relations theory. The implication is both simple and underappreciated: the counterbalancing constraint is inoperative and will remain so until the distribution of capabilities changes fundamentally. The next section explains why.

# 2nc

### 2NC Impact Calc

Magnitude- extinction will happen via contagion. Lack of vaccine means that the disease can cascade internationally. That’s Steinbrenner 97.

Probability- Highly probable. Only strong biotech industry can produce vaccines fast enough to cope with emerging diseases. Without them, disease cascades

Timeframe- Risk to attack is immediate. The industry is collapsing now, only an increase in foreign skilled workers can save biotech from failure.

### impact

#### Current immigration law endangers all innovation – reform is key

McCraw, professor emeritus at Harvard Business School, 11/1/2012

(Thomas, “Innovative Immigrants,” http://www.nytimes.com/2012/11/02/opinion/immigrants-as-entrepreneurs.html?pagewanted=all)

SOME 70 million immigrants have come to America since the first colonists arrived. The role their labor has played in economic development is widely understood. Much less familiar is the extent to which their remarkable innovations have driven American prosperity. Indeed, while both Barack Obama and Mitt Romney have lauded entrepreneurship, innovation and “job creation,” neither candidate has made comprehensive immigration reform an issue, despite immigrants’ crucial role in those fields. Yet understanding how **immigrants have fueled innovation through history** is critical to making sure they continue to drive prosperity in the future. At the country’s beginning, the three most important architects of its financial system were immigrants: Alexander Hamilton, from St. Croix, then part of the Danish West Indies; Robert Morris, born in Liverpool, England; and Albert Gallatin of Geneva. Morris was superintendent of finance during the Revolutionary War, using every resource at his command to support the army in the field. Hamilton, as the first secretary of the Treasury, rescued the country from bankruptcy and designed its basic financial system. Gallatin paid down much of the national debt, engineered the financing of the Louisiana Purchase and remains the longest-serving Treasury secretary ever. Immigrants’ financial innovations continued through the 19th century. In 1808 Alexander Brown, from Ireland, founded the nation’s first investment bank, and his immigrant sons set up Brown Brothers. The Lehman brothers, from Germany, began as dry-goods merchants and cotton brokers in Alabama, then moved to New York just before the Civil War and eventually founded a bank. Many other immigrants, including Marcus Goldman of Goldman Sachs, followed similar paths, starting very small, traveling to new cities and establishing banks. Meanwhile, “Yankee” firms like Kidder, Peabody and Drexel, Morgan — whose partners were native-born — remained less mobile, tied by family and high society to Boston and New York. Immigrant innovators were pioneers in many other industries after the Civil War. Three examples were Andrew Carnegie (Scotland, steel), Joseph Pulitzer (Hungary, newspapers) and David Sarnoff (Russia, electronics). Each came to America young, poor and full of energy. Carnegie’s mother brought the family to Pittsburgh in 1848, when Andrew was 12. He became a bobbin-boy in a textile mill, a telegram messenger, a telegraph-key operator, a low-level manager at the Pennsylvania Railroad, a division superintendent for the same railroad and a bond salesman for the railroad in Europe. Recognizing the limitless market for the rails that carried trains, Carnegie jumped to steel. His most important innovation was “hard driving” blast furnaces, wearing them out quickly. This violated the accepted practice of “coddling” furnaces, but he calculated that his vastly increased output cut the price of steel far more than replacing the furnaces cost his company. In turn, an immense quantity of cheap steel found its way into lucrative new uses: structural steel for skyscrapers, sheet steel for automobiles. Pulitzer was the home-tutored son of a prosperous Hungarian family that lost its fortune. He came to the United States in 1864 at age 17, recruited by a Massachusetts Civil War regiment. Penniless after the war ended, he went to St. Louis, a center for German immigrants, whose language he spoke fluently. He worked as a waiter, a railroad clerk, a lawyer and a reporter for a local German newspaper, part of which he eventually purchased. In 1879, he acquired two English-language papers and merged them into The St. Louis Post-Dispatch. In 1883, he moved to New York, where he bought The New York World and began a fierce competition with other New York papers, mainly the Sun and, later, William Randolph Hearst’s New York Journal. The New York World was pro-labor, pro-immigration and, remarkably, both serious and sensationalist. It achieved a huge circulation. Sarnoff was just 9 years old when he arrived from Russia in 1901. He earned money selling Yiddish newspapers on the street and singing at a synagogue, and then worked as an office clerk, a messenger and, like Carnegie, a telegraph operator. From there he became part of the fledgling radio firm RCA and rose rapidly within its ranks. Sarnoff was among the first to see radio’s potential as “point-to-mass” entertainment, i.e., broadcasting. He devoted a huge percentage of profits to research and development, and won an epic battle with CBS over industry standards for color TV. For decades, RCA and electronics were practically synonymous. As these men show, one of the key traits of immigrant innovators is geographic mobility, both from the home country and within the United States. Consider the striking roster of 20th-century immigrants who led the development of fields like movies and information technology: the Hollywood studios MGM, Warner Brothers, United Artists, Paramount and Universal; the Silicon Valley companies Intel, eBay, Google, Yahoo and Sun Microsystems. The economist Joseph Schumpeter — yet another immigrant, and the most perceptive early analyst of innovation — considered it to be the fundamental component of entrepreneurship: “The typical entrepreneur is more self-centered than other types, because he relies less than they do on tradition and connection” and because his efforts consist “precisely in breaking up old, and creating new, tradition.” For that reason, innovators always encounter resistance from people whose economic and social interests are threatened by new products and methods. Compared with the native-born, who have extended families and lifelong social and commercial relationships, immigrants without such ties — without businesses to inherit or family property to protect — are in some ways better prepared to play the innovator’s role. A hundred academic monographs could not prove that immigrants are more innovative than native-born Americans, because each spurs the other on. Innovations by the blended population were, and still are, integral to the economic growth of the United States. But our overly complex immigration law hampers even the most obvious innovators’ efforts to become citizens. **It endangers our tradition of entrepreneurship**, and it must be repaired — soon.

#### Solves warming

**Norris and Jenkins 9**, \*Project Director at the Breakthrough Institute, \* Director of Energy and Climate Policy, The Breakthrough Institute,(Teryn and Jessie, “ Want to Save the World? Make Clean Energy Cheap,” Huffington Post, March 10, <http://www.thebreakthrough.org/blog/2009/03/want_to_save_the_world_make_cl.shtml>)

Whatever the cause, we have very little chance of overcoming climate change without enlisting young innovators at a drastically greater scale. Simply put, they represent one of the most important catalysts for creating a clean energy economy and achieving long-term prosperity. The reason is this: at its core, climate change is a challenge of technology innovation. Over the next four decades, global energy demand will approximately double. Most of this growth will happen in developing nations as they continue lifting their citizens out of poverty and building modern societies. But over the same period, global greenhouse gas emissions must fall dramatically to avert the worst consequences of climate change. Shortly before his untimely death in 2005, the Nobel Prize-winning physicist Richard Smalley coined this the "Terawatt Challenge": increasing global energy production from roughly 15 terawatts in 2005 to 60 terawatts annually by 2100 in a way that simultaneously confronts the challenges of global warming, poverty alleviation, and resource depletion. The single greatest obstacle to meeting the Terawatt Challenge is the "technology gap" between dirty and clean energy sources. Low-carbon energy technologies remain significantly more expensive than fossil fuels. For example, solar photovoltaic electricity costs up to three to five times that of coal electricity, and plug-in hybrid and electric vehicles can be twice as expensive as their gasoline-fueled competitors. Unless this technology gap is bridged and clean energy technologies become affordable and scalable, poor and rich nations alike will continue opposing significant prices on their carbon emissions and will continue relying primarily upon coal and other fossil fuels to power their development. This will virtually assure massive climate destabilization. So the task is clear: to avoid climate catastrophe and create a new energy economy, we must unleash our forces of innovation - namely, scientists, engineers and entrepreneurs- to invent a new portfolio of truly scalable clean energy technologies, chart new paths to bring these technologies to market, and ensure they are affordable enough to deploy throughout the world.

#### BIOTERRORISM RISKS STOCK MARKET COLLAPSE

**GARRETT IN ‘01**

(science & medical writer) ‘01

[Laurie, Foreign Affairs, January/February, LN]

**In a large urban center,** the true costs of a bioterrorist attack might be the consequences of panic, such as a stock market collapse in New York or a commodities market crash in Chicago. At a 1998 Senate hearing on bioterrorism, then Minnesota State Epidemiologist Michael Osterholm warned against underestimating the degree of panic such an event would provoke:
[A] single case of meningitis in a local high school causes enough fear and panic to bring down a whole community. . . . Now imagine you're telling people, "This is going to unfold for eight weeks, and I can't tell you if you're going to die." And with every symptom . . . real or imagined, [people are] going to think, "I've got it! I'm going to die!"

#### BIOTERRORISM RISKS TRADE RESTRICTION BACKLASH

**FIDLER (Prof, Law, Indiana University.) ‘02**

[David P., “Public health and Internationa Law: Bioterrorism, Public health, and International Law.” 3 Chicago Journal of International Law 7, Spring//delo-uwyo]

This episode indicates that bioterrorism may affect international law on trade in goods. In the World Trade Organization ("WTO"), for example, member states have  [\*20]  the right to restrict trade in order to protect human, animal, and plant life or health. n39 The exercise of this right is subject, however, to scientific and trade-related disciplines. The scientific disciplines require sufficient scientific evidence and a scientific risk assessment supporting trade-restricting health measures. n40 Further, WTO member states must base trade-restricting health measures on applicable international standards, unless they have scientific evidence that such standards are inadequate. n41 The trade-related disciplines mean that trade-restricting health measures must be non-discriminatory and the least trade restrictive measures possible. n42
These rules were not designed to deal with the potential adverse trade consequences of bioterrorism. The rules remain relevant in the bioterrorism context, however, because they seek to ensure that trade-restricting health measures protect health, are based on scientific opinion rather than fear, and minimize the impact of *bona fide* measures on flows of international trade. Although Russia has not joined the WTO, the United States addressed Russia's ban against livestock and meat imports from Florida as though the dispute would be handled under the Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement"). The United States pointed out that Russia's ban exceeded applicable international standards set by the Office International des Epizooties ("OIE") for dealing with anthrax. n43 The SPS Agreement recognizes the OIE as the standard-setting international organization for animal health. n44 In other words, Russia's ban was not justified by the scientific standards internationally recognized as applicable in this context.
This episode reinforces the importance of science and public health as a component of international legal analysis. Bioterrorism is a great producer of fear. International trade law on protecting human, animal, and plant life and health seeks to ensure that science and public health principles drive government decisions rather than fear or protectionism disguised as fear. The anthrax attacks underscore the importance of these disciplines in international trade law.

#### primacy requires the best scientists – denying foreign access kills heg.

**Paarlberg 04** [Prof. of Poli. Sci. at Wellesley, and Assoc.at the Weatherhead Center for International Affairs at Harvard Science, Military Dominance, and U.S. Security, Robert L. Paarlberg, International Security 29.1 (2004) 122-151]

Military primacy today rests on scientific primacy, and the scientific primacy ofthe United States rests on a remarkably durable foundation. Rather than threatening U.S. primacy in science, globalization has strengthened it. Yet science-based military primacy on the battlefield is clearly not a guarantee of security. Determined adversaries can innovate increasingly asymmetric tactics against an endless list of soft targets, and the more domination and resentment they feel under U.S. conventional military hegemony, the more incentive they will have to move toward these unconventional responses. Conventional victories that make new enemies may encourage a dangerous shift toward asymmetry, and if the United States then responds by indiscriminately denying foreigners access to the homeland, U.S. primacy in science could itself be critically weakened. The war against international terror should be fought with science, rather than at the expense of science. The homeland security strategy of the United States should include much larger science investments in disciplines such as chemistry, physics, biotechnology, nanotechnology, and information technology, where promising new counterterror applications are sure to be found. Smart societies can develop not only smart new weapons for conventional use abroad, but also smart new capabilities for threat detection and soft target protection [End Page 150] at home. For example, nanofabrication may hold the key to a timely detection system for some terror bombing threats. Silicon polymer nanowires 2,000 times thinner than a human hair can cheaply detect traces of TNT and piric acid in both water and air, and might someday be developed and deployed into "smart" cargo containers, to protect against terrorist bombs. New information technologies using powerhouse terascale computing capabilities may soon be able to help in tracking and anticipating the behavior of terror networks.90 New systems capable of detecting dangerous amounts of radiation are increasingly affordable and unobtrusive, and the Department of Homeland Security has proposed development of a fully networked national sensor system to monitor the air continuously for pathogens, dangerous chemicals, and other public hazards. One line of defense already in place in thirty cities is a Lawrence Livermore National Laboratory-designed system for monitoring the air for biological attack.

### Uq

#### Will pass-momentum

Martin 3/22/13

[Gary Martin, reporter, 3/22/13, GOP developments on immigration reform give hope of eventual legislative action, <http://www.mysanantonio.com/opinion/columnists/gary_martin/article/GOP-developments-on-immigration-reform-give-hope-4377241.php#ixzz2OKhxtIMN>, uwyo//amp]

Several developments on Capitol Hill this week led many to believe Congress will pass a comprehensive immigration reform bill this year. Those developments involved traditional Republican opposition to citizenship for undocumented immigrants. First, the Republican National Committee issued a report that recommended the GOP embrace comprehensive reform MARKED— which commonly denotes citizenship. Second was the support for eventual citizenship by GOP presidential hopeful Rand Paul, although tortured in his explanation. Paul's nuanced speech to the U.S. Hispanic Chamber of Commerce was careful to avoid the actual word “citizenship,” which conservatives often claim to be “amnesty.” All this was watched intently by Democrats, who voiced disbelief at how fast the GOP position on immigration reform has shifted since the November election.

#### Will pass-coming by summer, bipartisan

Sarlin 3/20

[Benjy Sarlin, 3/20/13, Nancy Pelosi Predicts Immigration Reform Will Pass By Summer, <http://livewire.talkingpointsmemo.com/entry/nancy-pelosi-predicts-immigration-will-pass-by-summer>, uwyo//amp]

Minority Leader Nancy Pelosi (D-CA) is feeling good about immigration reform's chances in the House. “The good news is that we really do think that … on the immigration issue, that we will, before summer, have comprehensive immigration reform,"MARKED Pelosi said at an event at the US HIspanic Chamber of Commerce, according to The Hill. Party leaders on both sides of the aisle have said bipartisan negotiations in the House are close to producing an agreement. A bipartisan Senate group released a framework for their own reform plan earlier this year, but is still negotiating a final draft of legislation.

### Pc

#### Coming down after post-election high-still has PC

Nate Cohn, Obama's Plunge in Popularity is No Big Deal (Yet), New Republic, 3/15/2013.

http://www.newrepublic.com/article/112662/obama-approval-ratings-march-2013-unsurprising-decline#

After a decisive victory in November and attendant surge in popularity, President Barack Obama’s post-election honeymoon appears to be coming to an end. A wave of recent polls show that his job approval ratings have dropped from their post-election peak, leading some to blame the sequester and others to speculate that the president has lost his “political capital,” presumably endangering his agenda. That's probably overstating things. While the decline certainly isn't good news for the White House, it's not entirely surprising, either. Presidents receive a post-election bounce, and it usually comes back down.¶ But if it continues to fall, especially as the 2014 midterms approach? That's a different story.¶

#### Ratings decline doesn’t correspond to PC loss- just a correction

Nate Cohn, Obama's Plunge in Popularity is No Big Deal (Yet), New Republic, 3/15/2013.

http://www.newrepublic.com/article/112662/obama-approval-ratings-march-2013-unsurprising-decline#

The ratings' steady decline isn’t surprising. So long as Republicans remain uniformly dissatisfied with the president, Democrats need to be all but entirely unified for Obama’s approval ratings to eclipse 50 percent. Even support from 85 percent of Democrats, still an impressive show of party unity, wouldn't be enough to keep the rating above 50. (YouGov/Economist and Washington Post polls both show Obama down to 87 percent approval among Democrats, while McClatchy/Marist showed Obama at 82 percent.) With tepid economic growth and a never-ending stream of manufactured crises to diminish the public’s faith in Washington, Obama wasn't likely to maintain that kind of party unity. Even without those problems, it was only a matter of time before Obama's ratings returned to the upper forties, which is more or less where he's been for the last three years, with only the debt ceiling crisis causing his numbers to dip further. So it’s safe to assume that what we're witnessing is merely a modest correction rather than the beginning of a severe drop in support.

#### Obama PC key-absent leadership, Republicans will rely on lip service

Huerta 3/15

[Alvaro Huerta,The Progressive Media Project, 3/15, 2013, We need real immigration reform, <http://www.bradenton.com/2013/03/15/4437160/we-need-real-immigration-reform.html>, uwyo//amp]

I don't find the deportation of more than 1.6 million undocumented immigrants during Obama's first term in office as "welcoming." Moreover, given that Republican leaders remain hostile and pay only lip service to Latinos and immigrants in this country, it's incumbent on Obama and Democratic leaders to invest the necessary political capital for the benefit of the estimated 11 undocumented immigrants in this country.

### Link

#### Solar incentives sap capital – republican opposition, fossil fuel interests, and Solyndra scandal

NYT, New York Times, “End of Clean Energy Subsidies?” May 5, 2012

The federal government has given generously to the clean energy industry over the last few years, funneling billions of dollars in grants, loans and tax breaks to renewable power sources like wind and solar, biofuels and electric vehicles. “Clean tech” has been good in return. ¶ During the recession, it was one of the few sectors to add jobs. Costs of wind turbines and solar cells have fallen over the last five years, electricity from renewables has more than doubled, construction is under way on the country’s first new nuclear power plant in decades. And the United States remains an important player in the global clean energy market. ¶ Yet this productive relationship is in peril, mainly because federal funding is about to drop off a cliff and the Republican wrecking crew in the House remains generally hostile to programs that threaten the hegemony of the oil and gas interests. The clean energy incentives provided by President Obama’s 2009 stimulus bill are coming to an end, while other longer-standing subsidies are expiring. ¶ If nothing changes, clean energy funding will drop from a peak of $44.3 billion in 2009 to $16 billion this year and $11 billion in 2014 — a 75 percent decline. ¶ This alarming news is contained in a new report from experts at the Brookings Institution, the World Resources Institute and the Breakthrough Institute. It is a timely effort to attach real numbers to an increasingly politicized debate over energy subsidies. While Mr. Obama is busily defending subsidies, the Republicans have used the costly market failure of one solar panel company, Solyndra, to indict the entire federal effort to encourage nascent technologies.

#### - Ideological opposition to government support of solar is more virulent than ever

Jeff Johnson, Senior Correspondent and M.S. in journalism, University of Oregon, “Uncertainty Slows Energy Investments”, Chemical and Engineering News, Volume 89 Issue 47, November 21, 2011. http://cen.acs.org/articles/89/i47/Uncertainty-Slows-Energy-Investments.html

Stimulus money fueled Obama’s drive for clean energy projects, and in large part it fueled Republican opposition, notes David Goldston, who was staff director from 2001 to 2006 for the House Science Committee when it was in Republican Party hands. Today, he is director of government affairs for the Natural Resources Defense Council, an environmental group. “For decades there has been a large element within the conservative wing of the Republican Party that has not believed the government should do anything in the energy area beyond basic research,” Goldston says. For them, he says, government has no role supporting clean energy growth. They believe, he adds, that it is a “fantasy” that clean energy can ever be a significant part of the economy. “This goes back to the Ronald Reagan presidency, when that Administration eliminated all DOE applied research programs and tried to eliminate the department,” Goldston says. “What is different today is the virulence of the people making the argument.” The Solyndra failure, he says, provides a new way to fight this longtime ideological battle MARKED. And it makes conservative Republicans’ views more palatable to the general public because it appears they are exposing a wrong, rather than reengaging a 40-year battle against government involvement in the energy sector.

# Courts

### 2NC – A2 Perm Do the CP

#### Permutation is severance which makes stable link and competition ground impossible – reason to reject the argument.

#### [1.] Severs the agent – “The” means whole [USFG].

Merriam-Websters, 2010 (Online dictionary)

used as a function word before a noun or a substantivized adjective to indicate reference to a group as a whole

#### [2.] Severs reduce - Courts can’t reduce restrictions – 1NC Treanor & Sperling evidence says the counterplan leaves the restriction on the books but makes it unenforceable as a matter of law

### 2nc A2 Perm Do Both

#### Doesn’t solve politics; the Supreme Court must act first to provide political cover.

Garrett and Stutz, 2005 (Robert T. Garrett and Terrence Stutz, Dallas Morning News, “School finance now up to court Justices to decide if overhaul needed after bills fail in Legislature” lexis)

That could foreshadow the court's response to a chief argument by state attorneys – that the court should butt out and leave school finance to the Legislature. A court finding against the state would put the ball back in the hands of lawmakers, who have tended to put off dealing with problems in schools, prisons and mental health facilities until state or federal judges forced them to act. "It's the classic political response to problems they don't want to deal with," said Maurice Dyson, a school finance expert and assistant law professor at Southern Methodist University. "There is no better political cover than to have a court rule that something must be done, which allows politicians to say their hands are tied."

#### Turn – Mootness – Perm is the Court ruling on an issue that has already been resolved by Congress. This would be a moot ruling.

Hill & Baker 83 – Judge for the … !” Emory Law Journal, WINTER, 1983, 32 Emory L.J. 3

The mootness doctrine limits the judicial review power of the federal courts qua courts. The doctrine monitors the sequence of litigation events out of a traditional and constitutional concern for the very existence of a "case or controversy" itself. Once the matter is resolved, there is nothing on which the judgment of the court can operate. There is no judicial task that needs doing and no Article III jurisdiction. n53 Refusing to hear or dismissing disputes that have become moot serves the practical goal of preserving scarce judicial resources and the constitutional goal of limiting federal courts to judicial tasks. Conservation of judicial resources and maintenance of judicial integrity, in turn, serve to reinforce inherent limits on federal courts that underlie separation of powers and federalism.

#### Mootness kills SOP.

Watson, ’91 (Partner – Kirkland & Ellis, 86 Nw. U.L. Rev. 143)

A case becomes "moot" when "its factual or legal context changes in such a way that **a justiciable question no longer is before the court.**" 32 [\*147] Defining mootness as the absence of a justiciable issue, however, merely raises the question of what is meant by the term "justiciability." 33 The Supreme Court has distinguished a justiciable controversy "from one that is academic or moot." 34 Accordingly, a justiciable controversy is one that is "definite and concrete, touching the legal relations of parties having adverse legal interests." 35 The controversy must be "real and substantial[,] . . . admitting of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts." 36 The rule that a court will not decide a moot case is recognized in virtually every American jurisdiction. 37

With the concepts of mootness and justiciability so loosely formulated, some scholars have attempted to understand mootness jurisprudence by cataloguing the various circumstances which render a case moot. 38 A case may become moot because the alleged wrong passes and cannot be expected to recur; 39 because a defendant pays money owed [\*148] and no longer wishes to appeal; 40 because a criminal defendant dies while appealing his case; 41 because the law under which the suit was brought has since changed; 42 or because a party is no longer affected by the challenged statute. 43

Continues

The danger of permitting Smith to pursue his claim without requiring that he have a personal stake in the outcome may seem innocuous. Yet, the risk to separation of powers **is greatest where** the temptation exists to **ignore the requirements of justiciability and resolve a moot issue**.MARKED 224 Perhaps the danger is difficult to understand because such cases put the system at risk, rather than any particular person. 225 If the personal stake and live issue requirements are not satisfied throughout a judicial [\*175] proceeding, then the claim is within the legislative province according to the argument set out in this Section. Therefore, a court that decides the issue and administers a "remedy" when neither an actual harm nor a real plaintiff exists **performs a legislative function.** To inflate the judicial power through prudential considerations (such as preserving judicial resources) **tips the balance of powers** through these cases. 226 The constitutional constant becomes variable when prudential factors become overreaching. **This undermines our system of separated powers**.

#### Extinction.

 Henkin, Columbia International Law Professor, Spring ’88 Atlantic Community Quarterly

Lawyers, even constitutional lawyers, argue "technically," with references to text and principles of constructive, drawing lines, and insisting on sharp distinctions. Such discussion sometimes seem ludicrous when it addresses issues of life and death and Armageddon. But behind the words of the constitution and the technicalities of constitutional construction lie the basic values of the United States- limited government even at the cost of some inefficiency; **safeguards against autarchy and oligarchy**; democratic values represented differently in the presidency and in congress, as well as in the intelligent participation and consent of the governed. In **the nuclear age** the technicalities of constitutionalism and of constitutional jurisprudence **safeguard also the values and concerns of all civilized people committed to human survival.**

### A2 test case spec

#### The Court can invite cases

####  (b) And there is no DA link to this – the courts do this all of the time.

Adamany, Wayne State Law Professor, ’91 American Courts, ed. Gates

The Supreme Court policy-making role is sometimes downplayed by observers who argue that the other branches can initiate policy while the **justices are limited to decided cases that others bring to them**. Whether this characterization was ever true in American history, it has had **little meaning** since the Judges Bill of 1925 and has even less meaning **today.** Continues In 1988, Congress revised the law virtually to eliminate appeals by right, thus, giving the justices almost complete choice which cases to decide. Where the Court cannot find an issue of its docket, it may order parties to argue an issue that the justices want to consider.

### solv

#### The Court can rule on renewable restrictions

Ferreyi, 10

[Steven Ferreyi, Professor of Law, Suffolk University Law School, “Legal Barriers to Sub-National Governance Techniques by U.S. States for Renewable Energy Promotion and GHG Control,”Prepared for the 2nd UNITAR'-Yale Conference on Environmental Governance and Democracy, September 2010, <http://conference.unitar.org/yale/sites/conference.unitar.org.yale/files/Paper_Ferrey_0.pdf> //uwyo-baj]

There is no dispute that sales of wholesale renewable power to investor-owned regulated utilities are (1) wholesale power transactions and (2) interstate power transactions, unless they occur in Alaska, Hawaii, or parts of Texas. All are subject to exclusive federal jurisdiction; state authority is preempted. As the federal Court of Appeals recently remarked, and the Supreme Court confirmed, reforms in about a third of the states have taken their regulated utilities out of the power generation business and caused them to purchase wholesale the power that they distribute later at retail, and contributed to "a massive shift in regulatory jurisdiction from the states to the FERC." xxv

### Enforce

#### Court rulings solve – everyone will comply

Stephen L. Carter (Professor of Law, Yale University) Summer 1986 53 U. Chi. L. Rev. 819

The force with which the American people (and just as important, those who govern them) are socialized into obedience to the rule of law as articulated by the Supreme Court **is tremendous**. Children are taught obedience to law from early in their school years; as adolescents, they learn in civics that the Supreme Court authoritatively interprets the Constitution; as adults, they are warned that disobedience to the courts is subversive. This general respect for law, even if the law is considered unjust, **is probably the most powerful bulwark the American legal and political culture** offers against revolution. This socialization and the concomitant responsibilities it surely carries are the most powerful weapons the Court can bring to bear in any struggle with the Congress. Although the public may be angry, the Justices, if they possess sufficient fortitude, will nearly always win -- at least for the near term. But the fact that the Congress is likely to lose its battle to convince the Court (if it is a fact) cannot be the argument against undertaking it. The point is that by enacting a statute that the Supreme Court will likely find patently unconstitutional, the Congress may nevertheless play a role in constitutional dialogue. This is surely what Abraham Lincoln had in mind when, in debate with Stephen Douglas, he declined to assign to the Dred Scott decision n117 the force some claimed for it: We do not propose that when Dred Scott has been decided to be a slave by the court, we, as a mob, will decide him to be free. . . . [W]e nevertheless do oppose that decision as a political rule . . . which shall be binding on the members of Congress or the President to favor no measure that does not actually [\*856] concur with the principles of that decision. . . . We propose so resisting it as to have it reversed if we can, and a new judicial rule established upon this subject. n118 His argument was not for mob justice or revolution. His method, after all, would not succeed unless the Justices changed their minds. Thus the torturous judicial and academic searches for authority to explain and rules to limit the scope of the congressional authority enunciated in Katzenbach v. Morgan may be somewhat misguided. After all, a sufficiently determined Supreme Court might have countered section 4(e) with an opinion boiling down to this: "Look, we told you before that literacy tests do not violate the fourteenth or fifteenth amendments, so quit trying to find a way around our decision." Instead it said in effect: "Well, okay, if you're really sure that literacy tests are so bad, we're content to go along." Oregon v. Mitchell, n119 in which the Justices sustained the nationwide suspension of literacy tests, might be explained the same way. To take a contrary case, in Mississippi University for Women v. Hogan, n120 wherein they rejected a claim that the Congress possessed and had exercised authority under section 5 of the fourteenth amendment to permit the states to operate single-sex nursing schools, the Justices were plainly unpersuaded that sexually segregated schools run by the state were a good thing. Following the same reasoning, in the unlikely event that the Congress were to enact a Human Life Bill, judicial independence would not necessarily be threatened: The Justices could certainly strike the legislation as patently unconstitutional. On the other hand, the Justices might vote to sustain it. Were they to do so, the best explanation would be not that they had yielded their constitutional prerogative, but rather that they had been convinced by the reasoning (or the depth) of the congressional opposition. If all of this is so, then the place of the Morgan power in the dialogue between the Court and its constituents should be plain. I earlier outlined the ideal of symbiotic progress, in which the Congress and the Supreme Court take turns leading the way toward a better future. An exercise of the Morgan power may fit into that progression in a special way, as the Congress's most effective tool for expressing its strong disapproval of a judicial decision accepting [\*857]or rejecting a claim of fundamental right without risking the Court's legitimacy, hence the Constitution's, hence ultimately its own. To be sure, the Congress might try to do the same thing by enacting apparently unconstitutional legislation under the authority granted by any number of constitutional provisions, but proceeding under section 5 reduces the likelihood that the moral authority of the Court will be diminished should the Justices alter their decisions. As clever lawyers, the Justices can always accommodate the congressional action without unduly expanding congressional authority. Justice Brennan tried to do exactly this through his footnote 10 in Morgan. Furthermore, reliance on the special power granted to the Congress under the fourteenth amendment is consistent with the distinction I have drawn here and elsewhere between types of constitutional provisions. When the decision that the Congress calls into question is one regarding governmental structure, flowing therefore from the document's structural provisions, the Court may properly decline to enter the dialogue. By hypothesis, the Justices construe the Constitution's structural clauses under a set of rules chosen to channel their discretion narrowly. But under the open-textured clauses, where there is less to guide the Court in its decisions, it is particularly important that the Congress be able to engage the Court in dialogue without being accused of defiance. The Court may reaffirm its decisions, and in most cases -- including, I suspect, Roe v. Wade -- it presumably will, but it must do so with the knowledge that there exists a congressional consensus adequate to bring about affirmative and contrary legislation. Denying to the Congress the authority to enact the legislation is in a sense to deny to the Justices the knowledge that this contrary consensus exists. Permitting the legislation, even when it might subsequently be overturned, forces the Court to make an informed choice. And in the continuing dialogue, informed choices are the ones that matter most. This understanding of the Morgan power seems entirely consistent with the separation of powers. There is no violation of the rule of United States v. Klein, n121 because the Congress is not requiring the courts to decide cases in a particular way. After all, the Supreme Court still has the power to say "No," thus preventing enforcement of the congressional plan. No matter how many plans are presented, the Court may strike all of them down until the [\*858] Congress gets tired of trying, as Texas apparently did in the "white primary" cases. n122 Or the Justices may instead be the first to tire and may reverse themselves, as they apparently did during the New Deal. n123 But as long as the decision rests with the Justices alone, a judicial change of mind cannot be barred by separation of powers, even when the change is brought on by congressional or public pressure. The doctrine of separation of powers insulates the courts from force, not from persuasion.

# 2nr

### A2 Courts link to politics

#### Links a lot less than the plan –Congressional debate would more likely torpedo bipart than Court action, and any Congressional upheaval caused by the CP would be after the brink of the disad.

#### Supreme Court decisions avoid Congressional politics

Curry et al, 8 (Brett W, Richard L., Jr., Bryan W., Professors of Political Science – Georgia Southern University, "An informal and limited alliance", Presidential Studies Quarterly, 6/1, http://www.accessmylibrary.com/coms2/summary\_0286-34845337\_ITM)

Presidents have an incentive to use their time in the White House to cement their place in history. Presidents must work closely with Congress to ensure that their legislative agendas survive and flourish. But, as most presidents soon learn, that is not enough. An important consideration depends on the context the president faces (Barber 1992; Lewis and Strine 1996; Skowronek 1997). Over the bulk of the past 50 years, a number of presidents have served during periods of divided government, which, of course, complicates their attempts to exert influence and establish their legacies (Fiorina 1996; Quirk 1991). This has prodded presidents to seek influence and advance their policy goals in other ways, such as relying on executive orders to circumvent Congress (Deering and Maltzman 1999; Howell 2005; Krause and Cohen 1997; Krause and Cohen 2000; Marshall and Pacelle 2005; Mayer 2001) and using executive agreements instead of treaties to bypass the Senate (Howell 2003; Johnson 1984). Presidents have also turned to the Supreme Court in attempting to advance and protect their goals and initiatives. The institutional relationship between the president and the Court seems almost natural.MARKED Indeed, according to Robert Scigliano, that was the intent of the framers. Scigliano argues that the framers designed the judicial and executive branches as "an informal and limited alliance against Congress" (1971, vii). The rise of presidential and judicial power has largely come at the expense of Congress. The Court has generally been reluctant to challenge the exercise of executive power, particularly in wartime (Fisher 1997, 1998; Pritchett 1984, 281-338; Silverstein 1997). The Court has also helped the expansion of presidential power by silent assent (Barilleaux 2006). This study provides an empirical investigation of part of Scigliano's proposition: Does the Supreme Court appear responsive to the president in its decisions? Thus, this study is not concerned with those occasional cases involving executive power but with whether the Court systematically responds to the president in its overall decision making. Presidents can try to impress their philosophy on the courts through their appointments to all levels of the federal judiciary (Abraham 1999; Epstein and Segal 2005). This is particularly true of presidential influence over the Supreme Court, although opportunities to change the Court's composition are more intermittent (Krehbiel 2007). But presidents are equipped with additional tools to influence the Court as well. The president can rely on the Office of the Solicitor General to advance his agenda before the Court (Bailey, Kamoie, and Maltzman 2005; Pacelle 2003; Salokar 1992). The president can bring negative sanctions to bear if the Court issues unfavorable decisions. He can use the bully pulpit to initiate legislation or push for a constitutional amendment overturning a judicial decision. Finally, as the nation's chief executive, the president often determines the extent to which the Court's decisions will be implemented and respected (Canon and Johnson 1999).

#### Courts can execute policies without a political reaction

Ward 9 (Artemus, Professor – Political Science – Northern Illinois University “Political Foundations of Judicial Supremacy: The Presidency, the Supreme Court”, Congress & the Presidency, Jan-Apr, (36)1; p. 119)

Perhaps counter-intuitively, affiliated political actors - including presidents - encourage Courts to exercise vetoes and operate in issue areas of relatively low political salience. Of course, this "activism" is never used against the affiliated president per se. Instead, affiliated Courts correct for the overreaching of those who operate outside the preferred constitutional vision, which are often state and local governments who need to be brought into line with nationally dominant constitutional commitments. Whittington explains why it is easier for affilitated judges, rather than affiliated presidents, to rein in outliers and conduct constitutional maintenance. The latter are saddled with controlling opposition political figures, satisfying short-term political demands, and navigating intraregime gridlock and political thickets. Furthermore, because of their electoral accountability, politicians engage in position-taking, credit-claiming, and blame-avoidance behavior. By contrast, their judicial counterparts are relatively sheltered from political pressures and have more straightforward decisional processes. Activist Courts can take the blame for advancing and legitimizing constitutional commitments that might have electoral costs. In short, a division of labor exists between politicians and judges affiliated with the dominant regime.