

The Politics of Climate Hope and Despair

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Introduction

Two of the modern world's greatest challenges are more intertwined than we recognize: the risk of global upheaval from climate change and the threat to democracy from the consistent erosion of our institutions, particularly by political polarization, the internet, and social media.

This is the core thesis of David Spence's powerful new book, *Climate of Contempt: How to Rescue the U.S. Energy Transition from Voter Partisanship*.¹ Spence delivers on this message with profound insights and clear-eyed analysis: a multidisciplinary expert at the top of his game. Deftly blending a mastery of energy law and political science, Spence draws on a staggering array of both real-world examples and the full range of social science to show not just why these dual threats matter but how they are deeply connected. Even though the U.S. electorate wants climate legislation, increasing partisanship has stalled congressional action for decades.

Climate of Contempt is a book everyone should read. The reasons vary almost by the page. Why we are so increasingly partisan becomes clearer and clearer. Why this partisanship halts

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¹ DAVID B. SPENCE, *CLIMATE OF CONTEMPT: HOW TO RESCUE THE U.S. ENERGY TRANSITION FROM VOTER PARTISANSHIP* (2024).

sufficient climate action does too. And why we, as a nation, must stop screaming into the void at each other and begin talking, truly listening, and meaningfully engaging across difference emerges not as a lofty goal for the noble or high-minded but as a vital prescription for the social cancer we have too long indulged. We must “break out of the climate of contempt triggered by the propaganda machine,” Spence writes.² “That machine feeds the instinct to use moral suasion and shame as political weapons.”³ But those weapons lead neither to the clean energy transition nor to hope.⁴

Spence weaves his argument in three strands. From the starting point that the United States must move to a net zero emissions policy to combat climate change, Spence shows that past key efforts to regulate environmental challenges have relied on “republican moments”—pivots in our nation’s history where sufficient consensus has developed to overcome the inherent resistance against legislating that is built into our Constitution. He then demonstrates why those moments are increasingly difficult to achieve—in part because of gerrymandering but even more because of how we (fail to) engage as a nation. Finally, he turns to ways we can begin to neutralize this corrosive political—and social—tribalism, along the way unpacking key energy tradeoffs (technological, economic, social) we face as we address climate change.⁵

Climate of Contempt’s conclusion is that society must begin to more open-mindedly engage meaningfully with people who do not share our views, or we risk losing democracy—not just on climate but overall. It is a dire warning. It is also a necessary but

² *Id.* at 239.

³ *Id.*

⁴ *See id.* at 239–40.

⁵ *See generally* Teagan Goforth et al., *Exploring Equality and Sustainability Trade-Offs of Energy Transition Outcomes in the United States in 2050*, 367 APPLIED ENERGY, Art. 123376 (2024).

almost certainly insufficient remedy.⁶ What makes *Climate of Contempt*'s conclusion so powerful is the vast breadth of research on which Spence draws to shine such a bright light on how vital—and deep—of a challenge that pursuing this engagement is for modern America.

Part I of this Review outlines the basic thesis of *Climate of Contempt*, noting several of its insights. Part II takes up the two core arguments Spence makes in developing that thesis, highlighting these arguments' importance to the clean energy transition. Part III explores a triad of questions that inevitably arise from a close consideration of this important book.

I. Climate Partisanship

Part of why *Climate of Contempt* is so important is it asks an under-examined question: How does hyper-partisanship stand in the way of climate action?⁷

The lens Spence uses to parse this question is two-sided. By tracing the history of how energy and environmental policy developed in the United States, he shows how we have veered off our prior course, making our future challenge that much taller. The United States's history of regulating key energy and environmental problems—imperfectly, certainly, but regulating nonetheless—does not necessarily translate to the modern context. Past can be prologue, but there is no guarantee it will be. A difficulty for climate action today is that the political, social, and cultural environment the United States now occupies is different in kind from even twenty-five years ago.⁸

⁶ See *infra* Part III.

⁷ For one account, see generally Blake Hudson, *The Righteous Divide in American Policymaking*, 47 L. & PSYCH. REV. 97 (2023). For more on this question from an energy-centric perspective, see generally Hari M. Osofsky & Jacqueline Peel, *Energy Partisanship*, 65 EMORY L.J. 695 (2016).

⁸ See SPENCE, *supra* note 1, at 96.

How we ended up here—on climate and energy, yes, but also in general—is intertwined with broader movements of modern politics. The reorientation of both major U.S. political parties today toward market-oriented solutions, Spence shows, traces from centuries-old tensions in governance philosophies but more immediately to the late twentieth century pendulum swing against command-and-control regulation. Ronald Reagan ran on this platform. Other presidents since have varied in how much they embrace it, but no one has put the mantle down altogether. The pivot of the 1980s led directly to an overall political culture of the 2020s that is naturally predisposed against regulation.⁹

More than this, how we share and consume information has fundamentally changed. Throughout the 1900s, most people got their news from just a few outlets. This, and a broad faith in journalistic objectivity, meant that people came to political questions with a shared set of facts.¹⁰ As the 1990s waned, however, two developments changed the world. First, the internet’s emergence altered the speed, availability, and sources of society’s information.¹¹ Second, the advent of “news” programming with entertainment and partisan bents subsumed traditional ways in which society informs itself.¹² Together, these forces at first frayed the edges of societal dialogue and now have completely remade how the nation engages.

What put these trends into hyperdrive was the rise of social media and its powerful, opaque algorithms.¹³ The aftermath is

⁹ See *id.* at 65 (“[E]nergy policy over the past four decades has been mostly a deregulatory affair.”).

¹⁰ See *id.* at 140–41.

¹¹ See *id.* at 145–46; see generally SINAN ARAL, *THE HYPE MACHINE: HOW SOCIAL MEDIA DISRUPTS OUR ELECTIONS, OUR ECONOMY, AND OUR HEALTH—AND HOW WE MUST ADAPT* (2020); MAX FISHER, *THE CHAOS MACHINE: THE INSIDE STORY OF HOW SOCIAL MEDIA REWIRED OUR MINDS AND OUR WORLD* (2022).

¹² See SPENCE, *supra* note 1, at 140–45.

¹³ See, e.g., *id.* at 130–33, 140.

not pretty. Our common cultural context is eroded. Water cooler conversation in the 1990s was easy; bring up *Seinfeld*, *Friends*, or *ER*. You had an immediate connection with your coworker. Today, everyone consumes information in their own separate echo chambers, watching on their smartphone's private movie screen or indulging in an individually curated collection of podcasts and tweets. We walk around wearing noise-cancelling headphones and are literally isolated from each other: always there but never present. So too is our shared understanding of the world gone. There are facts—but also alternative facts. Or perhaps there are no facts at all: My facts are not your facts, and your facts are not their facts.¹⁴ We are scattered asunder. Fragmentation pervades us all. The postmodern world of isolation, disconnectedness, and social disintegration that Thom Yorke so feared in 1997 has come to its terrifying fruition.¹⁵

The dilemma this presents for climate action is multifarious and far-reaching. Signals from the public to politicians are

¹⁴ *See id.* at 138 (noting an experiment where two groups read the same article; those predisposed against the death penalty concluded the article supported their position, and vice versa).

¹⁵ RADIOHEAD, *Let Down*, on OK COMPUTER (Capitol Records 1997) (“Transport, motorways and tramlines / Starting and then stopping / Taking off and landing / The emptiest of feelings”); RADIOHEAD, *No Surprises*, on OK COMPUTER (Capitol Records 1997) (“I’ll take a quiet life / A handshake of carbon monoxide / And no alarms and no surprises”); RADIOHEAD, *Electioneering*, on OK COMPUTER (Capitol Records 1997) (“When I go forwards, you go backwards / And somewhere we will meet / Ha, ha, ha”); *see also, e.g.*, Amanda Petrusich, *The Whispered Warnings of Radiohead’s “OK Computer” Have Come True*, NEW YORKER (June 23, 2017), <https://www.newyorker.com/culture/culture-desk/the-whispered-warnings-of-radioheads-ok-computer-have-come-true> (observing that OK Computer is “now largely understood as a record about how unchecked consumerism and an overreliance on technology can lead to automation and, eventually, alienation,” even as Yorke has suggested its inspiration was more mundane).

muted.¹⁶ The possibility of consensus among the elected is more difficult than ever. Meaningful discourse on key policy details can be, and often is, short-circuited because now there is a new threshold question: Do we have any shared starting point? A too-tempting political tactic is to argue that one does not even exist. “Factual propositions,” Spence observes, “that seem obviously true in one social media information bubble seem ridiculous or naive in another.”¹⁷ For national climate regulation, the result is a now-entrenched outcome: stalemate.¹⁸

The rich irony of the United States’s decades-long gridlock over federal climate legislation is that it is the exact opposite of what the electorate wants. Taking action on climate change enjoys wide support among voters.¹⁹ Still, bill after bill fails in Congress.²⁰ As Spence notes, “the energy transition is popular with most Americans, including younger Republicans and virtually all Democrats,” but “national politicians are failing to translate informed majority preferences into policy.”²¹

¹⁶ See SPENCE, *supra* note 1, at 10 (“[A]ffective, negative partisanship has weakened the connection between voters’ policy preferences and their voting choices.”).

¹⁷ *Id.* at 17; see, e.g., Lincoln L. Davies et al., *Climate Regulation of the Electricity Industry: A Comparative View from Australia, Great Britain, South Korea, and the United States*, 13 S.C. J. INT’L L. & BUS. 109, 169 (2017) (“From 1999 to 2014, over 1,163 climate-oriented bills were introduced in Congress; however, no comprehensive legislation was enacted.”).

¹⁸ See, e.g., Patrick J. Egan & Megan Mullin, *US Partisan Polarization on Climate Change: Can Stalemate Give Way to Opportunity?*, 57 PS: POL. SCI. & POLS. 30, 30 (2024). For one examination of state climate politics, see generally Trevor Culhane et al., *Who Delays Climate Action? Interest Groups and Coalitions in State Legislative Struggles in the United States*, 79 ENERGY RSCH. & SOC. SCI., Art. 102114 (2021).

¹⁹ See SPENCE, *supra* note 1, at 5.

²⁰ See *id.* at 10.

²¹ See *id.* at 5, 10; see also Alec Tyson et al., *What the Data Says About Americans’ Views of Climate Change*, PEW RSCH. CTR. (Aug. 9, 2023), <https://www.pewresearch.org/short-reads/2023/08/09/what-the->

Spence details why this is the case with astonishing clarity—with the uncommon insight of a keen observer of national politics, one who does not just see the crucial details through his own disciplinary expertise but who also grasps the full horizon and how the pieces fit in the broad sweep of history.

Social media separates people, reinforces those false boundaries, and then presses and presses and presses. Thus, how the public learns has changed. How politicians hear has shifted too. Perhaps the most chilling passage of *Climate of Contempt* is when Spence explains how there are so many more “safe” congressional seats today than there used to be—and why those politicians almost invariably cater to the fringes of their party rather than the will of the voters.²² The cold calculus is self-interest: their risk of losing office is in the primaries, not the general election. In turn, the way that politicians engage with each other is different than in decades past. Attacks are more personal; attacks are rewarded; attacks are easier. Worse, because the parties have less overlap, as Spence highlights with historical data, their disconnect with the general electorate continues to push the parties further and further apart, a self-reinforcing cycle.²³

The crux is that, even though Congress multiple times has stepped to the brink of adopting climate legislation, the hurdle it must clear to do so is higher than ever. Across the board, past landmark energy and environmental legislation passed with the support of three-quarters or more of both chambers of Congress.²⁴ What made this possible was either a single party holding

data-says-about-americans-views-of-climate-change/ (noting that two-thirds of U.S. adults say the country should prioritize renewable energy development).

²² See SPENCE, *supra* note 1, at 116–17.

²³ See *id.* at 118–20.

²⁴ *Id.* at 62. For more on the history of environmental law in the United States, see generally, for example, James L. Huffman, *The Past and Future of Environmental Law*, 30 ENV'T L. 23 (2000); Robert V. Percival, *Risk, Uncertainty and Precaution: Lessons from the History of US*

large majorities or an issue enjoying wide bipartisan support.²⁵ Neither condition is true today (and has not been for some time), nor is the way political consensus is found the same anymore. The result, Spence observes, for the prospect of climate change regulation and beyond, is sobering: “[The] fracturing of political information and belief makes today’s partisan divide less like the divide of the 1930s and 1960s than like the divide of the 1850s.”²⁶

II. Political Problem, Social Solution

Two arguments form the backbone of *Climate of Contempt*. These twin pillars deserve additional attention.

First, Spence argues that what both makes possible and drives the political stalemate on climate action is that our social discourse today is different in kind from the past. To make this case, Spence marshals reams of social-science research in what can only be described as a tour de force. He then says “all the painful parts out loud.”²⁷

Political discourse today is more personal than ever. It is what Spence calls both more “negative” and more “affective.” By “negative,” Spence means “focused on preventing the other party from realizing its goals.”²⁸ By “affective,” he means “more of an expression of group identity than an expression of policy preferences or a governance philosophy.”²⁹ The problem is not that contempt in political dialogue is new. It of course is not. “What *is* new is how powerfully modern media amplify this

Environmental Law, in TRADE, HEALTH AND THE ENVIRONMENT: THE EUROPEAN UNION PUT TO THE TEST 25 (Marjolein B.A. van Assest et al. eds., 2014); A. Dan. Tarlock, *Environmental Law: Then and Now*, 32 WASH. U. J. L. & POL’Y 1 (2010).

²⁵ SPENCE, *supra* note 1, at 62.

²⁶ *Id.* at 18.

²⁷ THE NATIONAL, *Tropic Morning News*, on FIRST TWO PAGES OF FRANKENSTEIN (4AD 2023).

²⁸ SPENCE, *supra* note 1, at 118.

²⁹ *Id.*

dynamic”—“its *speed* and *scale*.”³⁰ That speed and scale have transformed politics from a competition of policies and ideas into a battle of people—an *us versus them* proposition that divides the country and deepens with each year.

The result is “partisan tribalism”: a world where winning elections is no longer a matter of policy preference, but rather, a “moral imperative.”³¹ Part of what drives this is “attribution error,” or ascribing less charitable motives to others because we know our own motives but not theirs.³² The risk is not just getting people wrong. It is assuming malice when there is none. In turn, this fundamental attribution error initiates a slide toward self-perpetuating cynicism about political opponents that tatters the very fabric of society. We begin to doubt others’ views because they are not ‘with us’; we accept our own perspective as objective and deem theirs biased, when the reality is otherwise.³³ It is a vicious, if psychologically natural,³⁴ temptation.

Yielding to this temptation is particularly easy in modern politics because “most political choices are binary,” but voters’ “decision criteria are multidimensional. . . . Votes are observable, but voters’ reasoning is not.”³⁵ It becomes even more tempting when we begin to view political positions not as different shades of how we might best govern our shared nation but a zero-sum binary battle between right and wrong. We push back because pushing back is our tribal duty, even though in reality true

³⁰ *Id.* at 23.

³¹ *Id.* at 96.

³² *Id.* at 134.

³³ *See id.* at 17, 139.

³⁴ As Spence notes at multiple turns, much of our misconceptions of the world (and others) are driven by “human psychology”—“cognitive biases.” *Id.* at 132, 133.

³⁵ *Id.* at 135.

patriotism demands asking what's best for the nation as a whole.³⁶

The ramifications of committing this sin are serious. It short-circuits our democracy, muting “the connection between voters’ issue preferences and electoral risk.”³⁷ When those in power no longer have to answer for votes because voting can always be justified as moral opposition to the other side, their power is no longer in check. As Spence explains, “Once a movement *feels* like a war, in particular a righteous one, critical questioning of group orthodoxy seems disloyal.”³⁸

For climate change and the myriad disasters, costs, and problems it is already visiting on society, this state of modern American politics is a failure.³⁹ When the “most powerful impulse driving voters’ votes is not their views about climate change but rather their *contempt* for members of the other political party,”

³⁶ Perhaps the most famous invocation of this notion is President Kennedy’s, but notably, this is hardly a partisan ideal. *See* John F. Kennedy, Inaugural Address (Jan. 20, 1961), <https://www.archives.gov/milestone-documents/president-john-f-kennedys-inaugural-address> (“Ask not what your country can do for you—ask what you can do for your country”); *see also* Olivia Munson, *30 Quotes from US Presidents to Uplift and Inspire*, USA TODAY (Sept. 11, 2024), <https://www.usatoday.com/story/news/2024/06/14/presidential-quotes-us-america/74001697007/> (first quoting George W. Bush, “For we are given power not to advance our own purposes, nor to make a great show in the world, nor a name. There is but one just use of power, and it is to serve people,” then quoting Ronald Reagan, “There is no limit to the amount of good you can do if you don’t care who gets the credit.”).

³⁷ *See* SPENCE, *supra* note 1, at 116.

³⁸ *Id.* at 4.

³⁹ *Id.* at 101–02. This is largely true at the national scale. But as Spence notes, “carbon emissions have fallen more” today than would have been required by prior, failed legislation. *Id.* at 110. And as is well-documented, states have led out on climate action in the United States. *See, e.g.,* Rosina Bierbaum et al., *A Comprehensive Review of Climate Adaptation in the United States: More Than Before, But Less Than Needed*, 18 MITIGATION & ADAPTATION STRATEGIES FOR GLOB. CHANGE 361, 369–373 (2013).

whether to legislate becomes divorced from the facts.⁴⁰ More and more, voters want climate legislation. But less and less do lawmakers have motivation to enshrine that preference into policy.⁴¹ Meanwhile, climate emissions continue.

Second, Spence seeks to locate a solution to this vexing dynamic. He does so by drawing on the same source that helped identify the problem and its complex inner workings: a rich body of social science research. There is logic to this approach. If the wound can only be exposed with light, perhaps light can reveal the salve as well. Admittedly, hard problems do not come with easy answers. And what Spence suggests is neither easy nor simple.

The answer to our nation's modern state of fractured politics, he contends, is to find greater common ground. The challenge, of course, is the dynamic itself. It continues to push us further and further apart, not only creating greater distance between each other but making it harder and harder to understand—or even see—the other side's perspective.⁴² This act of division is dangerous. The way that social media and the new “news” supercharge that division does not just exacerbate the danger. It fundamentally alters our relationships with each other. In the post-social media world, too often we no longer see each other as fellow Americans, or even people, but rather as the “other,” as Spence says, the “out-group”—*opponents*, or even just anonymized avatars on a screen.⁴³

Spence thus urges us to come again to see each other as human, to interact, to engage more deeply.⁴⁴ This, he says, is the

⁴⁰ See SPENCE, *supra* note 1, at 17.

⁴¹ *Id.* at 116.

⁴² See *id.* at chs. 3, 4.

⁴³ *Id.* at 4, 136–37; see also *id.* at 3, 17, 119–24 (explaining how today's political environment drives partisan, rather than issue-based, voting).

⁴⁴ See, e.g., *id.* at 21.

antidote to modern communication's oversimplification of thorny issues like climate change, which present multiple challenging tradeoffs,⁴⁵ into black-and-white questions of wrong and right. "[T]he political task facing the climate coalition is a complex social problem that some mistake for a simple moral choice."⁴⁶

Effectuating this solution takes work. Spence details the challenges to implementing it. People must embrace curiosity over judgment, look for and recognize their own biases, and expose themselves to opposing viewpoints and find empathy for those who hold them.⁴⁷ Even though these challenges make putting the solution into action difficult, the goal is straightforward: "*sustained in-person communication across ideological boundaries* as a way to break the spell of contempt and of firm but mistaken belief."⁴⁸ The in-person component is vital because it is what creates the most fertile ground for empathy to grow. This is so much the case that Spence even suggests, particularly when it comes to understanding social issues, limiting time online.⁴⁹ "[B]uilding cross-partisan empathy," he astutely observes, "does not happen when one is alone in front of a computer screen. Rather, it requires encountering *people* across ideological and partisan boundaries."⁵⁰

The allure of pursuing this solution is not just that it would make for a better, gentler America. It also has the potential to allow for real headway on climate change. Spence notes that

⁴⁵ *See id.* at ch. 5.

⁴⁶ *Id.* at 202.

⁴⁷ *See id.* at 204–10.

⁴⁸ *Id.* at 203.

⁴⁹ *See id.* at 221 ("We ought to treat our movement through the internet with intellectual and emotional care: get in, get only what we need, and get out. While there, we should move from place to place in the same way that visitors to Yellowstone National Park stick to the boardwalk to avoid falling into deadly geysers.").

⁵⁰ *Id.* at 211.

polling indicates perhaps a full third of the electorate is movable on climate. They are the undecideds, the cautious, the doubtful, the “ambivalent right” and “outsider left.”⁵¹ They have not yet been (and likely are not interested in being) “hardened by daily rhetorical battles over politics.”⁵² They are persuadable and could flip the legislative calculus on regulating climate emissions.

In turn, pursuing this solution of cross-partisan personal engagement, of working together to find greater common ground—of better understanding each other—could benefit society at a broader scale. The way today’s wicked politics encourage us to “organiz[e] hatreds,” Spence observes, brings real danger.⁵³ He notes, “Like any simmering, identity-based feud, each side sees its cause as righteous So the cure . . . for American democracy is the same course of action that will further the cause of getting to net zero: namely, engaging directly those on the other side of the partisan and ideological divide.”⁵⁴

III. Climate Complexity

Climate of Contempt challenges the reader—in a good way. One cannot leave the book without a deeper, richer, more sophisticated understanding of the climate change dilemma and the promise of the clean energy transition. Spence’s erudite but plainspoken exposition reorients the reader in our current sociopolitical landscape. Excellence exudes page after page. If one leaves *Climate of Contempt* without a greater impulse for empathy and a more genuine desire to understand, they are jaded indeed.

⁵¹ *Id.* at 210.

⁵² *Id.*

⁵³ *Id.* at 238.

⁵⁴ *Id.*

Still, *Climate of Contempt* is not a cure-all, just as no book can be. As masterful as Spence's history of U.S. energy and environmental policy is, as incisive as is his analysis of what plagues modern American politics, as thoughtful as is his suggested solution for how to begin reweaving our democracy's fraying fabric and heal our nation, at least three questions persist. They center on Spence's proffered solution of deeper civic engagement.

The first is whether the solution of individual engagement across difference can be enough. Let me be clear: I do not disagree in any way with Professor Spence's suggestion that this become our new default for how we engage with each other. I wholeheartedly endorse it. As I often tell my own students, lawyers are the last guardians of democracy.⁵⁵ So, we owe ourselves and each other a sacred duty to engage objectively and open-mindedly on substance, extending grace and the benefit of the doubt in life and in meaningful conversation: doing exactly what Spence urges, seeking to understand and spreading that thirst (or tolerance or predisposition) for fair-minded unbiased dialogue to others with a missionary-like fervor.⁵⁶ This must be the case in

⁵⁵ For examples of some perspectives on this role, see generally Bruce A. Green, *The Lawyer's Role in a Contemporary Democracy*, Foreword, 77 FORDHAM L. REV. 1229 (2009); Kenneth M. Rosen, *Lessons on Lawyers, Democracy, and Professional Responsibility*, 19 GEO. J. LEGAL ETHICS 155 (2006); see also Mark A. Cohen, *Democratic Degradation Is Law's Ultimate Disruptor*, FORBES (Aug. 17, 2022), <https://www.forbes.com/sites/markcohen1/2022/08/17/democratic-degradation-is-laws-ultimate-disruptor/>; Renee Knake Jefferson, *Lawyer Lies and Political Speech*, 131 YALE L.J. F. 114 (2021), <https://www.yalelawjournal.org/forum/lawyer-lies-and-political-speech>.

⁵⁶ See generally, e.g., Kirstin B. Gerdy, *The Heart of Lawyering: Clients, Empathy, and Compassion*, in LIFE IN THE LAW: RELIGIOUS CONVICTION (Jane H. Wise et al. eds., 2013).

the classroom; we must embrace it in society as well. Our republic stands little chance if we do not at least begin here.⁵⁷

But as necessary as this beginning is, it hardly seems sufficient. I already thought this. After taking in the full picture of America's broken politics that *Climate of Contempt* so vividly exposes, the target of thoughtful civic engagement feels only more daunting. As Spence highlights, the scope and scale of social media is what makes today's contemptuousness so different from a century ago. In the face of this—where social media is everywhere, where traditional news sources have been sidelined and continue to wither, where the new sources of information self-perpetuate and reinforce silos with every gander or click⁵⁸—stopping at deeper civic engagement alone comes across a bit too close to hoping that a water pistol might extinguish a blowtorch.

Spence of course does not assert that meaningful personal engagement is the whole, full-stop answer to our modern politics of discontent. At multiple turns, he hints at additional solutions that may be necessary: social media regulation, controls on electoral districting, or a return to past Congresses' (at least sometimes) culture of and willingness to engage in bipartisan compromise.

These hints point to a second lingering question: What other solutions might we need to fix democratic discourse and to adequately address climate change?

While broader systemic changes that Spence nods to (like redistricting) exceed *Climate of Contempt*'s scope, at least one additional solution he identifies connects more directly to the book's thesis. Early on, Spence suggests it “may or may not be true” that climate policy success must run through the

⁵⁷ Shakespeare's summation is most famous. See WILLIAM SHAKESPEARE, HENRY VI: PART 2, act 4, sc. 2, l. 75 (“The first thing we do, let's kill all the lawyers.”).

⁵⁸ See SPENCE, *supra* note 1, at ch. 4.

Republican party, concluding, though, that “the mathematics of majority rule mean that the road runs through the ideological median member of each house of Congress.”⁵⁹

This observation begs multiple questions. Is the point of deeper civic engagement to move the Republican party’s ideological median? To stem the tide of its lilt rightward? Or simply to ensure that party members’ actual preferences are in fact recognized and reflected by their representatives? Could organized religion help, even as American religiosity declines?⁶⁰ There is a burgeoning if underrecognized movement among people of faith to press for climate solutions.⁶¹ Alternatively, is there a path to climate action where Republicans and Democrats join forces? If so, what is it? Spence notes that past republican legislative moments arose when bipartisan support for an issue was widespread. Given voters’ current preferences, is there no prospect

⁵⁹ *Id.* at 19.

⁶⁰ See, e.g., Samuel L. Perry, *America’s Becoming Less Religious. Is Politics to Blame?*, TIME (Feb. 10, 2024, 7:00 AM), <https://time.com/6693016/americas-less-religious-politics-to-blame/>; PEW RSCH. CTR., IN U.S., DECLINE OF CHRISTIANITY CONTINUES AT RAPID PACE (2019), <https://www.pewresearch.org/wp-content/uploads/sites/20/2019/10/Trends-in-Religious-Identity-and-Attendance-FOR-WEB-1.pdf>; see also Derek Thompson, *The True Cost of the Churchgoing Bust*, THE ATLANTIC (Apr. 3, 2024), <https://www.theatlantic.com/ideas/archive/2024/04/america-religion-decline-non-affiliated/677951/> (detailing how America’s loss of religiosity has further disconnected us from each other).

⁶¹ See generally, e.g., RICHARD S. GOTTLIEB, A GREENER FAITH: RELIGIOUS ENVIRONMENTALISM AND OUR PLANET’S FUTURE (2006); Steve Douglas, *Religious Environmentalism in the West*, 3 RELIGION COMPASS (2009); *Our History*, INTERFAITH POWER AND LIGHT, <https://interfaithpowerandlight.org/about/> (last visited Oct. 16, 2024). But see Becca A. Alper, *Religious Groups’ Views on Climate Change*, PEW RSCH. CTR. (Nov. 17, 2022), <https://www.pewresearch.org/religion/2022/11/17/religious-groups-views-on-climate-change/> (noting disparities in climate views among religious and non-religious survey respondents).

for this today? Might that change once the party is no longer led by Donald Trump?

Finally, *Climate of Contempt* accepts as a starting premise the idea that the United States must adopt command-and-control regulation to reach net zero climate emissions. This must be “national *regulatory* legislation,” Spence writes, “‘regulatory’ in the sense of *mandating* fundamental changes in the behavior of energy-market participants in order to reduce carbon emissions.”⁶²

Is this true?

Certainly, a direct mandate on climate emissions is the most straightforward way to reach net zero, but that conclusion rests on two assumptions: first, that such a mandate would be aggressive enough (read: not gutted by congressional compromise), and second, that it would not be left to agency discretion (read: not susceptible to swaying in the political winds from one administration to the next). Neither is a sure thing.

Moreover, economically, it should make little difference whether Congress passes a top-down mandate or a bottom-up incentive. Either can be designed to deliver the United States to net zero. Both sticks and carrots can achieve desired outcomes, a point Spence acknowledges in his thoughtful, lengthy treatment of the United States’ only real national climate legislation to date, the Inflation Reduction Act of 2022 (IRA).⁶³ There, Spence rightfully worries that the IRA’s incentives may prove inadequately persistent or strong, perhaps for good reason. What

⁶² See SPENCE, *supra* note 1, at 3. For one synopsis of the lift it took to adopt some of the major environmental legislation of the 1960s and 70s, see Lincoln L. Davies, *Lessons for an Endangered Movement: What a Historical Juxtaposition of the Legal Response to Civil Rights and Environmentalism Has to Teach Environmentalists Today*, 31 ENV’T L. 229, 292–98 (2001).

⁶³ See SPENCE, *supra* note 1, at 106–10. For more on the IRA and clean energy, see generally James A. Ferguson, *Death, Taxes, and Clean Energy: How the Inflation Reduction Act Harnesses Tax Law to Revitalize American Clean Energy*, 17 J. BUS. ENTREPRENEURSHIP & L. 91 (2024).

we are left with after the IRA, Spence notes, is a “swirl of economic and policy forces” on energy and climate, including some that “put tailwinds at the back of the transition” and some that “represent headwinds likely to slow its progress.”⁶⁴ This is a fair point.

But isn’t it also possible that at some juncture we will reach a tipping point where clean energy is so cost-effective that it becomes the preferred choice for non-environmental reasons? In that world, a climate mandate seems less necessary. Might incentives be enough to deliver this reality? In the electricity sector, if we are not already there, we are getting close.⁶⁵ It was the intentional design of early clean energy laws that helped us reach this result, driving costs down by scaling up technology.⁶⁶ Yes, in many U.S. states, that came by mandate, and I myself have supported (and still would) such a national law.⁶⁷ But in other jurisdictions, whose far-away laws undoubtedly helped ease the transition in the U.S., it was by incentive.⁶⁸

This tension underscores the complexity of the climate challenge, even for how we choose our starting assumptions. As Spence notes, “[i]n today’s hyperconnected political environment, the use of culture-war frames has turned the old axiom that ‘all politics is local’ on its head; today it is more accurate to

⁶⁴ SPENCE, *supra* note 1, at 110.

⁶⁵ See LAZARD, *LEVELIZED COST OF ENERGY+ 2* (2023), <https://www.lazard.com/media/20zoovyg/lazards-lcoeplus-april-2023.pdf> (“Selected renewable energy generation technologies are cost-competitive with conventional generation technologies under certain circumstances[.]”).

⁶⁶ See, e.g., Mary Jean Bürer & Rolf Wüstenhagen, *Which Renewable Energy Policy is a Venture Capitalist’s Best Friend? Empirical Evidence from a Survey of International Cleantech Investors*, 37 ENERGY POL’Y 4997, 4998 (2009).

⁶⁷ See Lincoln L. Davies, *Power Forward: The Argument for a National RPS*, 42 CONN. L. REV. 1339, 1396 (2010).

⁶⁸ See Lincoln L. Davies & Kirsten Allen, *Feed-In Tariffs in Turmoil*, 116. W. VA. L. REV. 937, 944–45 (2014).

say that all politics is national.”⁶⁹ The same is true of climate policy but at a much broader scale.

The United States does not go at climate mitigation alone. Our economy is internationally interconnected. Whether we like it or not, our efforts to hasten the clean energy transition proceed in that global context.

Conclusion

Today’s world is fraught. Our challenges are multiple, wide-reaching, and intersectional. In a world as fractured as ours, it is all too easy to come to rest in a state of despair. As Spence notes, anyone familiar with climate science and “the disturbing accuracy of its predictions to date” is likely to find our nation’s failure to adopt aggressive climate legislation as evoking “dread.”⁷⁰

That dread, or despair, is understandable given the gravity of threats that climate change presents. It may even be justified when the entrenched partisanship that our nation now faces is fully understood, an exposition *Climate of Contempt* offers in significant depth.

But this despair is not useful. It does not motivate change, and worse, it does not bring us together. Those are the things we need now—action and common ground.

At its heart, in vivid color, scrupulous objectivity, and a painstaking culling of our best understanding of how and why the flawed human race behaves, this is what Spence gives us in *Climate of Contempt*—perhaps not a perfect solution but what we need most of all:

Hope.

⁶⁹ SPENCE, *supra* note 1, at 114.

⁷⁰ *Id.* at 5.