STRUCTURALLY UNSOUND

An investigation of the role of the structure of the Federal Trade Commission in the codification of Neoliberal economic policy into the US code of law.

by

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Certificate of Approval

This is to certify that the accompanying thesis by Claire S. Ommen has been accepted in partial fulfillment of the requirements for graduation with Honors in Politics.

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Abstract

This paper evaluates the investigation of the Federal Trade Commission into the matter of a shared monopoly held between Kellogg Company, General Mills, General Foods, and Quaker Oats between 1972 and 1982. The investigation expanded the definition monopoly and if the respondents had been found guilty, would have greatly broadened the powers of the federal government to intervene into business practices. The investigation demonstrates the shift towards neoliberalism that occurred during the same time period in the US. The outcome of this investigation is both a product of the existing intellectual, political, and ideological processes that were already underway, and served to further them. Due to the structure of the FTC, its decisions tend to push the US political economy towards the right, contributing to the fall of Keynesiansim, the rise of neoliberalism, and the perpetuation of monopoly practices. This case study illustrates the essential role that institutions of the US bureaucracy playing in the legitimation of neoliberal economy thinking, the encoding of said thinking into law, and the normalization of neoliberalism into everyday practices.

Introduction

The early 1970's mark the beginning of a dramatic shift in the government of the United States. At that time began a noticeable shift within the government and the economy in favor of lassiez-faire economics, deconstruction of social policy, decreasing consumer protection legislation, decreasing labor regulations, deregulation of the market and of corporations, and a widespread reiteration of classical liberal discourse dedicated to protecting personal liberties and committed against large-scale federal government. The newer rendition of classical liberal economics that appeared in the 1970s was characterized by a paradoxically high level of intervention by the state, despite the ideological dedication to "free markets." In this more modern form of liberal economics and politics (which I will call "neoliberal") the state intervened into the economy in order to promote a healthy business climate. Notably, this time period also marks the acceleration of a trend of concentration of wealth into the hands of a few economic elites which is today referred to as the "wealth gap."

This time period coincides with the rise and proliferation of many massive corporations that held not only economic power, but political power as well. These monopolies present a threat to competitive markets, and in certain sectors of the economy a threat to security. This is especially true for the US food supply: a sector of the economy which is controlled by a remarkably small number of extremely large companies which have their fingers in many pies (that the statistics would indicate they themselves produced) including the agricultural research-grant colleges and the regulatory bodies of the FDA, the FTC, and other governmental organizations in charge of both food production and marketing regulations, and anti-trust policy.[1] This allows said corporations to influence farm technology, practices, and policy, food-quality and labeling regulations, and more general market-place regulations. This control is exercised via lobbying and by the use of capital to influence policy makers both directly and indirectly through the manipulation of supply and demand for certain products. This type of control over both market and policy is characteristic of a high degree of monopolization, and allows private corporate interests to control availability and quality of the food in the United States.

Author Wenonah Hauter is the executive director of the Food and Water Watch, an organization which monitors corporate and government accountability concerning food, water, and other common resources. In her book *Foodopoly*, Hauter connects the increasing monopolization of the food industry back to the 1970s and 1980s.

Hauter notes the severity of the monopolization of the food industry, and names this situation a “crisis”. In the United States, 5% of the farms selling food into the marketplace provide 93% of all foods available in supermarkets.[2] A total of 20 production companies control 85% of the foods sold to consumers (which includes both fresh and processed foods). Meanwhile, only four retailers control a total of 50% of all food sold to consumers, on average. In parts of the US, this is as high as 90%. These statistics apply to “local” and “organic” foods as well; the vast majority of organic food companies are owned by the same said 20 food production corporations, and local foods depend on the same four major retailers.[3] This means that up to 90% of the food sold to

[1] Hauter, Wenonah, 2012. *Foodopoly.* New York: The New Press. 62-77.
[2] Hauter, *Foodopoly*, 2.
[3] Hauter, *Foodopoly,* 82.

the US population depends on the decisions of only four private corporations. It means that 85% of all food produced in the US is controlled by only 20 corporations. It means that private interests control the vast majority of a universally necessary resource, which Hauter considers to be a crisis due to the insecurity of the US population against corporate control.

While some of these corporations exercise monopoly-like control over a specific sector of the food system, the degree of concentration across the whole system into the hands of a few is often referred to as "oligopoly." Like monopolies, oligopolies allow a few elites to control the supply of a certain good or service, and thus control the prices, competition, and regulations within their industry. The main difference between oligopoly and monopoly is that in the former there is a certain degree of collaboration (deliberate or not) between many large corporations rather than total control by one monolith.

Hauter argues that during the 70s and 80s, the goal of economic efficiency was used to justify a return to laissez-faire economics, and the dismantling of government interventions into business affairs including regulations, tariffs, and antitrust laws.[4]

This paper will examine one specific example of the theoretical and political shift towards neoliberal thinking, and the corresponding deregulation of the economy and concentration of wealth. In 1972 the Federal Trade Commission (FTC) launched an investigation of the four largest producers of Ready to Eat (RTE) cereals. These were Kellogg Company, General Mills, General Foods, and Quaker Oats. The initial complaint alleged that these companies shared an oligopoly over the RTE cereal industry which

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[4] Hauter, *Foodopoly,* 62.

prevented new producers from entering into that industry, and held prices at an unnaturally high level above costs. This complaint introduced a totally new definition of what could constitute illegal monopoly behavior called Shared Monopoly Theory (SMT). The logic of this theory maintained that these four respondent companies together controlled more than 90% of the RTE cereal industry, and through cooperation with each other they maintained monopoly level control over the industry[5].

The initial complaint in this investigation used SMT to find the respondents in violation of Section 5 of the FTC Act, which prohibits unfair methods of competition as defined by the Clayton Act of 1914. If the FTC investigation had confirmed the allegations in the initial complaint, it would have confirmed SMT as a valid interpretation of US antitrust law, vastly expanded the power of the FTC, broadened definition of illegal monopoly-behavior, and increased the ability of the state to regulate industry practices. This complaint represents one of the last attempts of a left-leaning Commission, dedicated to expanding regulation of business practices, state powers and Keynesian economics, to shift the political-economic policies and practices in the US in favor of higher levels of state intervention into corporate practices and the de-concentration of wealth and power among corporations.

Notably, this project failed. In 1982 the complaint was dismissed and the investigation closed. This rejection of SMT corresponds with the rightward trend towards neoliberalism. This particular FTC investigation is an important case study of this right-trending effect in government institutions because each case heard by the FTC sets a precedent for acceptable business practices in the future. The dismissal of this case

[5] Federal Trade Commission, *Federal Trade Commission Decisions*. Vol. 99: Docket #8883: 11-13 1971-1982. Online, accessed January 2018.

indicated that oligopolistic practices were, in fact, legal, and this case went on to serve as precedent for yet further concentration of wealth and power amongst corporations, thus furthering the neoliberal project. This decision represents a turning point in the operation of the FTC: in the words of Chairman James C. Miller III, the Commission was no longer interested in the "social engineering" or "broad use of its power" which ten years prior were considered the main function of the Commission[6].

There are many related, complementary, and contradictory theories on how and why neoliberalism came to dominate political thinking, how it gained popular consent, and how it continues to exacerbate the concentration of wealth. David Harvey offers a theory of the ideological power of neoliberalism and its importance to the capitalist class, while Jamie Peck considers the development of the economic theory itself throughout the history of the 20th century. Meanwhile, Stuart Hall has written extensively on the subject of neoliberalism, and theorizes its initiation as the intersection of a historically specific set of circumstances in which neoliberalism emerged as the most viable solution to a specific economic and ideological crisis. Nancy McLean describes the way in which the United States government is set up so as to tend right (and thus towards neoliberalism), and thus may offer further insight into Hall's arguments as to why neoliberalism gained both political power and how it gained popular consent.

All of the authors whose work will be addressed in this paper discuss to a certain extent the role of the state in the transition to neoliberalism. This is key to their arguments because the ideological dedications of neoliberal thought are highly

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[6] Miller quoted in New York Times: Potts, Mark, and Michael Isikoff. "Pertschuk Exits FTC with Guns Blazing." *New York Times*, Sept. 25, 1984

contradictory to the actual application of its economic policy. By examining the direct role of the state in the institutionalization of neoliberal thought, their theories gain clarity and nuance. The US Food system, as discussed above, has been the site of great contestation in regard to economic and regulatory policy because of its implications for the security of the population. Therefore, it serves as an excellent model to discuss the role of government policy and institutions in the transition towards neoliberalism.

My analysis of the FTC's investigation into the Matter of Kellogg et al. confirms the arguments of the aforementioned authors. That said, it also reveals the essential role of the US bureaucracy in this transition. I will show, using the FTC investigation into the situation of a Shared Monopoly held within the RTE breakfast cereal industry, that the specific structure of the FTC made it vulnerable to the neoliberal project already occurring before the 1970s and 1980s. Critically, the specific structure and function of the FTC within the US bureaucracy was also essential for the codification of neoliberal ideology into policy and practice going forward from that time period. Thus the FTC investigation into The Matter of Kellogg et al. is not only an example of the effect of the ideological and political processes described by the existing cannon of literature, but also an essential part of the continuation of those processes.

The Rise of the New Right

Neoliberalism is a theory of economics and a corresponding form of state that became the dominant economic theory in the US (as well as in Britain and other parts of Western Europe) in the 1970s and 1980s. Prior to that period, Keynesian economic theory dominated most policy and practice, but ever since this shift neoliberal economics have shaped not only the economy but also the way in which US politics are conducted and specific policies in place. Later, we will investigate these policies as they apply specifically to monopolies in the food-system in the US.

For the sake of this paper, it is important to note that I use "right" to refer to those who favor deregulation, reduced state power, and free-market economies. Meanwhile, I will use "left" to indicate those who favor higher regulation and greater state intervention. The term "liberal" is not associated, in my usage with "left" but rather with classical liberal economic and political theory. I make this distinction because the terms "liberal" and "conservative" have so many contrasting meanings that they have reached the point of semantic bleaching, and thus they will not be used to indicate relationships to any specific political parties in this paper.

Neoliberalism shares the ideological dedications of classical liberalism to lassiez-faire capitalism. Classical Liberalism maintains that rational, self-interested people will, on the aggregate level, do what is best for the entire society through their quest for their own best interests, and that markets will perform best without any intervention from the state. Liberal economic theory is dedicated to the principles of individuality, freedom, democracy, the virtue of labor, private property, and minimal intervention on the part of the state.

Neoliberal economic theory is contingent upon a more active state; a contradiction with its dedication to individual freedoms and deregulation. According to David Harvey, a professor of Anthropology at the University of New York, neoliberalism does not exist in the realm of pure economy, but only in a "Neoliberal State."[7] According to Harvey, the "'Neoliberal State' is a state whose fundamental mission is to facilitate conditions for profitable capital accumulation on the part of both domestic and foreign capital."[8] The logic behind this form of state intervention maintains that if businesses are thriving and production is high, then all participants in the economy will benefit. This mission, Harvey elaborates, results in policies favoring large corporations and the economic elite. Harvey also notes the ideological bases of neoliberalism, rooted in classical liberalism:

> According to [neoliberal] theory, the neoliberal state should favor strong individual private property rights, the rule of law, and the institutions of freely functioning markets and free trade. These are the institutional frameworks considered essential to guarantee individual freedoms.[9]

Of course, the actual function and viability of neoliberalism is the subject of great contention amongst both political and economic thinkers. Before I begin my discussion of the rise of neoliberalism from the specific perspective of monopolies within the food-system, I will discuss the existing theory on the reasons behind the shift within the US political-economy in favor of neoliberalism, and how this was achieved from both a political-economic, and a social perspective.

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[7] Harvey, David 2005. *A Brief History of Neoliberalism*, 7. New York: The Oxford University Press Inc.
[8] Harvey, *Neoliberalism,* 7.
[9] Harvey, *Neoliberalism*, 64.

I will engage with the work of David Harvey, Jamie Peck, Stuart Hall, and Nancy MacLean, all of whom offer their own theories on the phenomenon of the rise of neoliberalism. To borrow the words of Jamie Peck, "the ontology of neoliberalism is consequently imagined here as an evolving web of relays, routines, and relations."[10]

Liberal Intellectualism Meets an Economic Crisis

Directly, neoliberalization was a process of breaking down the regulatory structures, and disembeding capital from state-imposed constraints, in order to shift the global economy in the interests of large businesses.[11] All of the aforementioned authors concur that the economic crisis in the of the 1970s in the US and Great Britain acted as a lynchpin for the rise of neoliberalism and the political actors who supported it. That said, the ideological and intellectual work was already underway long before this crisis occurred.[12] According to Peck, the economic crisis opened up the opportunity for these existing ideas to gain power and popularity. During the economic crisis of the 1970s and 80s, the existing political-economic structures failed, and thus the situation demanded a new solution. David Harvey argues that at this time the class of economic elites faced direct threats to their status as communist and socialist solutions to the economic crisis gained popularity.[13] They used their capital influence over the state apparatus and invoked the already widely popular discourse of liberal ideology in order to gain the

[10] Peck, Jamie 2012. *Constructions of Neoliberal Reason,* 34. New York: The Oxford University Press.

[11] Harvey, *Neoliberalism*, 5-19; McLean, Nancy 2017. *Democracy in Chains,* "Introduction," xxx. New York: Penguin Random House, LLC; Hall, Stuart, 1979. "The Great Moving Right Show." Selected Political Writings: 173; Peck, *Constructions*, xi.
[12] Peck, *Constructions of Neoliberal Reason*, 3.
[13] Harvey, *Neoliberalism*, 13-17.

consent of the masses for a system of deregulation and economic stimulus to the capitalist class which had the effect of condensing both economic and political power into the hands of the economic elites.[14]

The existing scholarship agrees that these economic elites would not have been able to control the political-economic situation in this way if not for the existing intellectual groundwork in support of radical-right economic policy. Jamie Peck's work focuses on the intellectual and ideological origins of radical right economic thinking, which later gained popularity when it encountered the specific economic crisis of the 1970s. Peck states:

> Neoliberalism has many authors, many birthplaces. Its multiple lineages intersect and interact in ways that reveal a great deal about how this "free-market" project, from its beginnings, was a somewhat plural and socially produced project - the hybrid outcome of a protracted conversation between a series of (only partly complementary) "local" protoneoliberalisms.[15]

Peck's analysis begins with the economic work of what would eventually become the radical right, and the material situations which allowed these ideas to gain political power. Peck argues that this economic thinking eventually morphed into neoliberalism, and that although the theory existed before the economic crisis of the 1970s, "the neoliberal ideational project was designed - one might say planned - for this encounter with reality,"[16] referring to said economic crisis.

Harvey's work picks up the thread at the point of this encounter. Harvey describes the project of the newly-threatened economic elites, and how they engaged with the intellectual groundwork described by Peck to create a new political-economic system

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[14] Harvey, *Neoliberalism*, 16: MacLean, *Democracy*, xxxii.
[15] Peck, *Construction*, 39.
[16] Peck, *Constructions*, 71.

which reaffirmed the power of the capitalist class. Harvey also describes the ideological processes which occurred in order to gain popular consent for these policies. According to Harvey:

> The founding figures of neoliberal thought took political ideals of human dignity and individual freedom as fundamental, as 'the central values of civilization'. In so doing they chose wisely, for these are indeed compelling and seductive ideals. These values, they held, were threatened not only by fascism, dictatorships, and communism, but by all forms of state intervention that substituted collective judgments for those of individuals free to choose.[17]

By attaching their economic and political agendas to the values of classical liberalism, Harvey argues that the economic elites gave their project credibility that was actually in conflict with the material realities of neoliberal policy. He goes on to argue that the values of classical liberalism were re-popularized by engineered social movements (especially student protests in California, with their dedication to individual rights, and counter-culture animosity towards "The Man"), by popular media, by the political affiliation of the right with the Christian church, and by academic institutions at this time.[18]

Ideological Engineering

Stuart Hall also analyzes the ideological project involved in the rise of neoliberalism. Hall engages with the work of Antonio Gramsci in order to argue that neoliberalism became so proliferate during this time period due to ideological shifts and the codification of neoliberalism into "common sense." Common sense is a Gramscian

[17] Harvey, *Neoliberalism*, 5.
[18] Harvey, *Neoliberalism*, 42-47.

concept referring to knowledge based in socialization and tradition rather rationality and experience.

Hall's analysis focuses on the ways in which neoliberal ideologies were constructed around the historically specific situation including existing intellectual and ideological work (as described by Peck), conditions of economic crisis, and a threatened class of economic elites (as described by Harvey). He invokes Gramsci in order to explain how a crisis situation may lead to the construction of new ideological and political forms. Hall states:

> Gramsci insisted that we get the 'organic' and 'conjunctural' aspects of the crisis into a proper relationship. What defines the 'conjunctural' – the immediate terrains of struggle – is not simply the given economic conditions, but precisely the 'incessant and persistent' efforts which are being made to defend and conserve the position.[19]

Hall notes that the crisis alone cannot act as explanation, but that the actors involved also influenced the crisis-situation in their own interests. He elaborates:

> These efforts cannot be merely defensive. They will be formative: a new balance of forces; the emergence of new elements; the attempt to put together a new 'historical bloc'; new political configurations and 'philosophies'; a profound restructuring of the state and the ideological discourses which construct the crisis and represent it as it is 'lived' as a practical reality; new programmes and policies, pointing to a new result, a new sort of 'settlement.'[20]

Hall understands this re-articulation of existing ideas and ideologies as a positive action on the behalf of one 'bloc' of the population. Critically, Hall describes the way in which this new reality is actively constructed:

> These [restructurings] do not 'emerge': they have to be constructed. Political and ideological work is required to disarticulate old formations, and to rework their elements into new configurations. The 'swing to the right' is not a reflection of the crisis: it is itself a response to the crisis.[21]

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[19] Hall, *The Great Moving Right Show*, 175.
[20] Hall, *The Great Moving Right Show*, 175.
[21] Hall, *The Great Moving Right Show*, 175.

According to Hall's scholarship, (and related to the work done by Harvey) the economic crisis of the 1970's required a solution, and under the specific circumstances of failing Keynesian policies, the OPEC oil-embargo, stagflation, and given the rise of Thatcher, Raegan, Volcker, and other right-leaning politicians, the class of economic elites was able to pull together a coherent discourse. The discourse they constructed consisted of de-regulative policy, pro-business economic thinking, and liberal ideological values in order to articulate a new reality which appeared to be a viable solution to a deeply rooted crisis. Meanwhile, other political blocs were not able to construct as compelling a narrative, or as seemingly-viable a solution to the circumstances of the late 1970s. Therefore, the project of the radical right and the class of economic-elites dominated political, economic, and social thinking. In Gramsician terms, the neoliberal bloc was able to achieve an ideological hegemony where other blocs were unsuccessful Thus Hall's work illustrates the intersection between Peck's focus on the previous intellectual and ideological labor and Harvey's theories on the struggles over changing class-power relationships.

The Not-So-Neutral Capitalist State

The final theoretical piece of the shift from Keynesianism to neoliberalism lies in the actual mechanisms by which these political and ideological changes were executed. As discussed by Harvey, one component of this shift was the generation of popular consent by mass media and institutions of education. Stuart Hall's work reflects similar ideas, Hall states that theoretical ideologies were organized via the educational institutions and the popular media in order to influence the ways in which the populous understood economic science and democratic values.[22] The work of Nancy MacLean corresponds with the theories of Hall and Harvey on this subject, but also complicates their understandings of the mechanisms of neoliberalism. MacLean's analysis of the shift in favor of neoliberalism shares Harvey's assertion that it was a project of class power. MacLean's work suggests that the US State was deliberately designed to function in a way that will always favor the economic elite- that will slow down shifts in favor of increased regulation, consumer protection, and broadened social policy (shifts to the left, in short). She claims that this has the ultimate effect of curtailing democratic practices in the US in favor of rule by the capital class.[23] Her theories are centered on the economic work of James Buchanan, however she provides insight into the way that the state limits the power of the populous, and how institutions such as universities, health care, the criminal justice system, and education can all be directed and utilized by the economic elites in order to 1) favor their own interests and 2) perpetuate the neoliberal ideologies which hold up this system.[24] From the perspective of MacLean's work, the ideological institutions described by Harvey and Hall are deeply tied to the organization of the state in the US. Furthermore, the US state itself is harnessed in order to perpetuate neoliberal policies and the ideologies upon which they rely. Bob Jessop, a professor of sociology offers an analysis of the function of the state under the Capitalist mode of production. He states

> [The state] is not a neutral instrument equally accessible to all social forces and equally adaptable to all ends. Instead it has an in-built, form-determined bias that makes it more open to capitalist influences and more readily mobilized for capitalist policies.[25]

[22] Hall, *The Great Moving Right Show*, 182
[23] MacLean, *Democracy*, xxxii; 227.
[24] MacLean, *Democracy*, 227.
[25] Jessop, Bob, 1990. *State Theory: Putting Capitalist State in the Place,* 177-8. University Park PA, Pennsylvania State University Press.

This implies that in the capitalist system, the state is structured in such a way that will always favor the interests of capital. The lack-of-neutrality on the part of the state was essential to the shift towards neoliberalism, and will be demonstrated below by my analysis of the FTC.

Read together, these authors paint a picture of a historically specific moment in which the intellectual and ideological basis for neoliberalism encountered a widespread economic crisis. In this moment, the now-threatened capitalist class mobilized institutions of the state to create policies in their favor, and mobilized institutions of academia, media, religion, and other social forces in order to create a hegemonic ideology that supported it.

Absolutely critical to this shift are the institutions which entrenched neoliberal thinking in the policies and practices of the US political and economic system. This paper will evaluate the ways in which these institutions, specifically the Federal Trade Commission, were set up (years before the shift towards neoliberalism occurred) in a way that allowed the ideological and intellectual forces at play to become codified into law. These institutions were certainly vulnerable to the same ideological forces that are noted by the theorists above, yet their specific structure and functions lent these forces power that was essential to the neoliberal project, as is demonstrated by the investigation into the Matter of Kellogg et al.

The Investigation into the Matter of Kellogg et al.: a case study of the institutionalization of neoliberalism

The Federal Trade Commission gets its powers from the FTC Act, which was passed in 1914. The FTC has two main duties: firstly to prevent unfair methods of competition, and secondly to keep the public and Congress informed as to the developments within industry which might threaten competition.[26] The FTC Act sets up the structure of the FTC and determines what kinds of practices the FTC can investigate, and the actions it can take against them. As argued by Nancy MacLean (regarding all State institutions) the structure of the FTC prevents radical or rapid change, especially towards higher regulation and government intervention into the economy.[27] This effect is derived from several of the structural and functional features of the FTC which will be examined in the context of the investigation into Kellogg et al.

Firstly the FTC is vulnerable to existing ideological, political, and capital forces due to its reliance on individual actors, the powers these actors possess, and the methods by which these people are appointed. Secondly, the ways in which investigations are conducted has the tendency to confirm the status quo rather than to make any significant changes in the practices of corporations. This means that the outcomes of investigations are biased in favor of 1) the status quo and 2) right-leaning political and economic practices. Finally, the actions by the FTC have more resonant effects when cases are dismissed and the rights of corporations are confirmed than they are when a respondent is

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[26] Blaisdell, Thomas C. 1932. *Federal Trade Commission: An Experiment in the Control of Business*, 13. New York, Columbia University Press.
[27] Maclean, *Democracy in Chains*, 220-226.

found guilty because the powers of the FTC do not include enforcement, and thus any material changes rely of the decisions of Federal and State courts. All of these specific elements of the FTC are illustrated by the Matter of Kellogg et al. and will be explained and analyzed below. This case reveals the ways in which the FTC, based on the way it was structured, was vulnerable to the ideological and political forces in action at the time of the transition to neoliberalism, but it also demonstrates that beyond merely reflecting this transition, the ways the FTC (again due to the way it was set up long ago) served to entrench neoliberalism further into the state.

Details of the Investigation into the Matter of Kellogg et al.

The complaint against Kellogg et al, made in 1972, was based on a new theory of what could constitute a monopoly. This new theory, called Shared Monopoly Theory, as discussed earlier, would have expanded the powers of the FTC to regulate the behaviors of corporations within the capitalist US economy. It represents an attempt of a left-leading FTC to expand economic regulation in the face of the crisis of the 1970s. The failure of this investigation and subsequent rejection of SMT is a testament to the widespread changes in economic thinking, of popular ideologies, of the failure of the antitrust project at this time.

The actual formation of the FTC is a Commission on which five to seven members sit, one of whom is the Chairperson of the Commission. Originally, the chair was elected by the other commissioners, however in 1950 this role became designated by the president. This means that the Chairman of the Commission would likely reflect the views of the current president. Notably, during the final years of the Matter of Kellogg et al, the chairman of the commission Michael Pertschuk, a noted opponent of trusts, was replaced by James C. Miller, who was appointed by Raegan, and whose leadership of the FTC was characterized by the elimination of several branches, and the de-establishment of anti-trust law in general. Thus the very method of the appointment of commissioners opens the FTC up to politically biased influences. The Chairman determines which matters bear investigation, and coordinates the work of the three bureaus within the FTC during investigations.

In order to get a case investigated, an initial complaint must be made to allege that the respondents have violated either the Clayton Anti-Trust Act, the Sherman Act, or Section 5 of the FTC Act. In the Matter of Kellogg et al. the initial complaint finds the respondents in violation of the Clayton Anti-Trust Act and was authorized to investigate under section 5 of the FTC Act.[28] In order to find a violation of Section 5, the complaint names four respondents: Kellogg Company, General Mills, General Foods, and The Quaker Oats Company. It claims that together they exercised a monopoly over the RTE Cereals (RTE) industry. This new conception of what could constitute illegal monopoly behavior, SMT, would have represented a significant broadening of the FTC's power to investigate the practices within industry. The initial complaint in 1972 did not contain any accusation of "conspiracy," which was previously required to find multiple corporations guilty of illegal competitive practices.[29] Thus in order to sustain their compliant, the compliant counsel defined monopoly as "the power to hold prices above a competitive level of costs."[30] This theory has economic bases in the work of Professors Areeda and Turner, writing in the early 1970s, who claim that if the Sherman Act

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[28] FTC, *Federal Trade Commission Decisions*, Vol.99: 8.

[29] Blaisdell, *Federal Trade Commission*, 40-44.

[30] FTC, *Federal Trade Commission Decisions*, Vol.99: 34.

identifies monopoly practice by a single firm as unlawful, then so too it forbids monopoly practices by multiple firms together.[31]

The complaint counsel for this case claimed that the respondents were in violation of Section 5 of the FTC Act for two reasons. The first was that the respondents were guilty of tacit collusion and were operating monopoly power, the second was that they had created substantial barriers to competition within the RTE industry. The complaint counsel used the "structure-conduct-performance" model of analysis to indicate that the structure of the industry allowed the respondents to conduct their businesses in a certain way, which in turn effected their performances in the economy. In the words of the complaint, "Each of the respondents is in substantial competition with each and all of the other respondents and with other cereal producers in the manufacture and sale of RTE cereals in interstate commerce, except to the extent that competition has been hindered, lessened and eliminated as hereinafter set forth."[32] This hindrance is caused, according to the complaint, because "in 1940, the respondents' sales accounted for approximately 68% of the RTE cereal market; in 1950, for 84%, and in 1970 for 90%."[33] Following this, because the respondents together controlled the dominant share of the RTE market, the complaint maintains that "respondents individually and in combination have maintained and now maintain, a highly concentrated, noncompetitive market structure in the production and sale of RTE cereals, in violation of Section 5 of the Federal Trade Commission Act."[34] This represents a totally new way of understanding what a monopoly

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[31] Areeda and Turner, *Antitrust Law*, 1978, cited by Federal Trade Commission Decisions. FTC, *Federal Trade Commission Decisions*, Vol. 99: 9

[32] FTC, *Federal Trade Commission Decisions,* Vol. 99: 8.

[33] FTC, *Federal Trade Commission Decisions,* Vol. 99: 9.

[34] FTC, *Federal Trade Commission Decisions,* Vol. 99: 11.

is, and a new way to interpreting the legislation authorizing the FTC and the legislation which it is designed to uphold.[35] The investigation of this case was so significant because it greatly broadened practices that could be considered non-competitive.

The complaint then enumerates the specific practices of the respondents that they find to be in violation of section 5 of the FTC Act. The specific violations are numerous, and not all of them fall within the scope of my analysis. Those that do have the results of holding prices above the "natural" market price, and preventing other competitors from entering the market at all[36]. The most crucial detail of the complaint is the accusations that the respondents "refrained from challenging each other's decisions to increase prices for RTE cereals, and, in general, acquiesced in or followed the price increases of each of them,"[37] they have "restricted the use of trade ideas and trade-directed promotions for other RTE cereals," and have "limited the use of consumer-directed promotions."[38] This practice is called "Price Leadership," and has had the effects of allowing respondents to "individually and collectively, establish and maintain artificially inflated pries for RTE cereals," to "obtain profits and returns on investment substantially in excess of those that they would have obtained in a competitively structured market," that "actual and potential competition in the manufacture and sale of RTE cereals has been hindered, lessened, eliminated and foreclosed," and "significant entry in the RTE cereal market has been blockaded for other thirty years" and that as a result "American consumers have

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[35] Statement by ALJ Berman: FTC, *Federal Trade Commission Decisions*, Vol. 99: 267.

[36] FTC, *Federal Trade Commission Decisions*, Vol. 99: 8.

[37] FTC, *Federal Trade Commission Decisions*, Vol. 99: 14.

[38] FTC, *Federal Trade Commission Decisions*, Vol. 99: 15-16.

been forced to pay substantially higher prices for RTE cereals than they would have had to pay in a competitively structured market."[39]

After an initial complaint is made, an Administrative Law Judge (ALJ) is assigned to the investigation in order to determine whether or not to proceed with the investigation, and to advise the commissioners on what actions are appropriate in that Matter. According to the FTC Act, in order for a complaint to merit investigation, it must 1) involve interstate trade, 2) come under the jurisdiction of the FTC as an unfair method of competition and 3) be in the best interest of the public. In the Matter of Kellogg et al. Judge Harry R. Hinkes was appointed by Chairman Miles W. Kirkpatrick to oversee the investigation of the initial complaint. Kirkpatrick ran a left-leaning commission, which was very active in the expansion of FTC powers and economic regulations. Hinkes accepted the complaint as a valid interpretation of antitrust law, and allowed the complaint to proceed to investigations and hearings.[40] Both Hinkes and Kirkpatrick were suspected by the respondents of being biased against large corporations, and it is notable that these men both chose to interpret SMT as a valid theory of monopoly, even though it was a totally new interpretation of the law.[41]

The investigations are then conducted within the three bureaus of the FTC. These bureaus are the Bureau of Consumer Protection, the Bureau of Competition, and the Bureau of Economics. The Bureau of Consumer Protection employs investigators and attorneys to investigate and intervene into business practices on the behalf of consumers. The Bureau of Competition investigates and enforces antitrust laws. Meanwhile, the

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[39] FTC, *Federal Trade Commission Decisions*, Vol. 99: 15.

[40] FTC, *Federal Trade Commission Decisions*, Vol. 99: 268.

[41] FTC, *Federal Trade Commission Decisions*, Vol. 99, 18.

Bureau of Economics provides support to the other two bureaus by providing expert knowledge on the economic situation and the potential impacts of the FTC's decisions.

Shifting Ideologies, Shifting Economics

Ideological Shifts Demonstrated by The Matter of Kellogg et al.

Throughout the investigation of the Matter of Kellogg et al. statements by commissioners, judges, and media elements reflect the ways in which this case was vulnerable to the shifting ideological forces at play within the US political economy.

Firstly, the FTC is populated by individual actors, all of whom are vulnerable to external pressures, biases, and ideological forces. The manner in which these people are appointed, and the control they exert over the outcomes of the FTC decisions thus makes the FTC vulnerable to said influences (especially that of capital and lobbying on the behalf of corporations.) This is clearly demonstrated by two dualities within the investigation. Firstly, the appointment of Chairman James C. Miller III by Ronald Raegan in 1981. Prior to his position on the FTC, Miller sat on the boards of the Washington Mutual Investors Fund, J.P. Morgan, and participated in several economic groups all of which emphasized liberal ideology and pro-business, pro-corporate economic policy. These affiliations stand in contrast to those of his predecessors Michael Pertschuk, Calvin J. Collier[42] and the rest of the Chairmen going back to Miles W. Kirkpatrick, who led the commission in 1972 and oversaw the initial complaint[43]. Miller's commission was greatly affiliated with the Raegan administration, and with Miller's previous corporate ties. Hauter notes in her discussion of agricultural

[42] Collier Quoted by New York Times: Burnam, David. "The Washington Report." *The New York Times*, March 20, 1977
[43] FTC, Federal Trade Commisison, Vol.81-99, 1972-1982

monopolies that Miller's FTC "eviscerated antitrust law."[44] She goes on to elaborate that "under the Miller team, the Division of Food and Drug Advertising was eliminated and the twenty attorneys working on food and drug issues were reassigned and demoted."[45]

Miller's reluctance to increase regulation of large corporations, or to expand the scope of antitrust law is demonstrated by his advocacy and the Commission's subsequent decision not to appeal the initial decision pending further review of the evidence and witnesses in the investigation after the ALJ's order of dismissal.[46] This allowed the Matter of Kellogg et al. to be dismissed entirely, with no official action taken by the FTC against any of the respondents.

The second duality which clearly demonstrates the power of the individual within the FTC is that between the two ALJs who oversaw this investigation. In 1980 ALJ Hinkes retired, and was replaced by ALJ Alvin R. Berman, who would eventually dismiss the case entirely based on much of the same economic evidence that Hinkes interpreted as valid grounds for a full investigation.

The employment and interpretation of expert testimony and economic evidences in this investigation is another example of the ways in which the structure of the FTC makes it vulnerable to outside influences. In the investigation into the Matter of Kellogg et al. many economic evidences and witnesses provided testimony. These evidences were provided by the Bureau of Economics and the Bureau of Competition. Both the complaint and the defense counsels then called economic experts and employees of the respondent

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[44] Hauter, *Foodopoly,* 45.
[45] Hauter, *Foodopoly*, 45.
[46] FTC, *Federal Trade Commission Decisions*, Vol. 99: 269.

corporations as "witnesses of fact." There are 881 Findings of Fact entered into the initial decision given by Judge Berman.

And Those are the Facts: shifting interpretation of evidence

The findings of fact all support Berman's decision. As he states in a footnote on the 42nd page of his nearly 300-page decision, he considers all of the 881 findings of fact to be indisputable fact, and that his use of them is subject to his own interpretation of said facts.[47] This, once again, confirms the dependence of the FTC on the decisions of individual persons. The Facts are broken into sections covering I) The Respondents and the nature of their business II) the relevant elements of the market III) Structure of the RTE Industry IV) Competition within said industry V) Impediments to new entry into the RTE Cereal market, and VI) Performance of each respondent. Each of these sections addresses one of the allegations of the initial complaint. While there are many nuances to the allegations in the initial complaint, the two major concerns which made the practices of Kellogg Company, General Mills, General Foods, and Quaker Oats Company illegal were their practices of price leadership, and the barrier to entry into the RTE industry. These, the complaint alleges, allowed them to exercise monopoly level control over the RTE industry through tacit collusion. Much of the evidence in the Facts of the case confirm those cited in the Initial Complaint, however the different interpretation of said Facts led to the dismissal of the complaint rather than its confirmation.

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[47] Statement by ALJ Berman; FTC, *Federal Trade Commission Decisions*, Vol. 99: 42

Regarding Price Leadership, the Initial Complaint alleges that by either overt agreement or tacit collusion General Mills, General Foods, and Quaker Oats allowed Kellogg Company to set the prices of RTE cereals and changed their own prices to follow.

Berman dismisses "price leadership" as a violation of either Section 5 of the FTC act or of any parts of the Sherman Act on the premise that the economic evidences indicate that it was "normal business practice."[48] Firstly, he claims that similarities in pricing structure mean nothing because the products in question are differentiated. This is a striking difference to the language in the complaint which alleges that said the product differentiations are false ones, and are directly contributing to the proliferation of the respondents' brands and to their abilities to control prices[49]. Secondly, Berman quotes Dr. Markam's economic theory established in Finding of Fact #265 and Dr. Scherer's testimony (amongst many, many others) to claim that there was not price leadership or correlation between the brands at all because the economic analyses used to establish said correlations did not take into account with actual profits to the respondents, or the cost of production to the individual respondents.[50] Berman states that "the record reflects genuine, independent business reasons why General Mills and General Foods did not originate price changes more frequently than they did and why they followed price increases of their competitors to the extent that they did."[51]

With Regards to the barrier to entry in the RTE industry, Berman argues that the economic evidence suggests no barrier to entry into the industry. This is a fascinating

[48] FTC, *Federal Trade Commission Decisions*, Vol. 99: 252.
[49] FTC, *Federal Trade Commission Decisions*, Vol. 99: 9-11
[50] FTC, *Federal Trade Commission Decisions*, Vol. 99: 99.
[51] FTC, *Federal Trade Commission Decisions*, Vol. 99: 252.

interpretation of evidence, with great importance to the shift towards neoliberal economic thinking. The allegations state that the respondents shared enough of the market to make it impossible for potential competitors to achieve economies of scale (according to Areeda and Turner[52] this must be greater than 80% of the total market, where these four controlled greater than 90%), and thus were functioning in an anti-competitive way.[53] Berman claims that the evidence indicates that this is untrue, because the way the market for RTE cereal functions, achieving an economy of scale (an thus the ability to profit) is impossible unless one can control 5% of the market, but one could feasible enter the market by controlling only 0.5-1%.[54] This is notable because both the complaint and dismissal of said complaint cite complementary facts. The interpretation in Berman's dismissal, however, is that the market is eliminating said competition, rather than that the respondents control so large a share of the market that they can effectively set prices so as to out compete any new competitors. Berman states that the structure of the market is not to be blamed upon the respondents. This is a dramatic reversal of the logic of the complaint, which absolutely holds the practices of the respondents responsible for this competition-eliminating structures. Berman's interpretation of market-structure reflects the neoliberal dedication to capital accumulation, rather than to free and competitive markets.

The Initial Complaint also attacks the widespread use of Kellogg Company's recommended allocation program for shelf-space. This program was designed to create

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[52] Areeda and Turner, Antitrust Law, cited by Complaint Counsel in FTC, *Federal Trade Commission Decisions*, Vol. 99: 15.
[53] FTC, *Federal Trade Commission Decisions*, Vol. 99: 11-16.
[54] FTC, *Federal Trade Commission Decisions*, Vol. 99: 258.

more sales for Kellogg at the expense of its rivals[55], and was widely implemented in the majority of food retailers as it was also consistent with the best interests of retailers.[56] The program recommended by Kellogg and utilized by most retailers recommended the discontinuation of any product that did not capture at least 0.5-1% of total sales within the RTE market.[57] This is significant because, as noted above, the minimum market share which Berman believes can feasibly allow a new competition to enter the market is also 0.5-1%. This would indicate that new entrants into the RTE market must immediately control more than 0.5% of the market at the time of their launch in order for their products to even be considered for shelf-space at retailers. While the complaint counsel suggests that this indicates an unfair barrier to entry, Berman states in Fact 461 that it is simply best practices by the retailers, and that the respondents cannot be held accountable for the retailers' decisions in their own best interests.

On the whole, this case was dismissed using very similar evidences as were employed by the initial allegations. However, the economic theories were employed or interpreted differently by Judge Berman than they were by the counselors who wrote the complaint 10 years earlier. This points to a change in the climate of economic and political theory within the FTC's Bureau of Economics, on top of Berman's own differing interpretations of the evidence from that of Judge Hinkes.

As I discussed earlier, the economic theories which each of the individuals within the Bureau of Economics encounters are subject to influence by the engineers of neoliberalism via capital influence of academic and cultural institutions, as is addressed

[55] FTC, *Federal Trade Commission Decisions*, Vol. 99: 143.
[56] FTC, *Federal Trade Commission Decisions*, Vol. 99: 144.
[57] FTC, *Federal Trade Commission Decisions*, Vol. 99: 143.

by Hall, Harvey, and MacLean. In the case of anti-trust policy and even more specifically, food policy, lobbying is also a significant feature of the interpretation and enforcement of antitrust law.[58]

Beyond the direct influence on these individuals, most of the economic and agricultural research institutions receive financial backing from interested parties. For example, the 12 largest food and agricultural research universities in the US each either receive funding from a major food production corporation, or have a member of their board who is also on the board of one such corporations. This allows the corporations to influence the research conducted at said university, likely in the interests of their corporation.[59] This phenomenon is not limited to agricultural research, economic research and theory is equally subject to influence by capital.[60]

As discussed in the work of Jamie Peck, the intellectual work underpinning neoliberalism had largely been conducted prior to this time period.[61] Once neoliberal thinking gained political importance to the class of capitalist elites, however, universities which produced research in favor of neoliberal economic policies received greater funding, and thus the bulk of knowledge produced during this time supported deregulation, and the permission of monopolistic behavior in the name of "efficiency."

These changes in widespread economic thinking are evident in Findings of Fact 716-733, in which Berman cites new economic evidence debunking the evidences of the complaint counsel in its Initial Complaint, as far as they used the methods of Professor

[58] Hauter, *Foodopoly*, 44-59.

[59] Hauter, *Foodopoly,* 50.

[60] Hall, *The Great Moving Right Show*, 183-6; Maclean, *Democracy in Chains*, "Get Ready," *Democracy*, 207-234; Harvey, *Neoliberalism*, 39-64.

[61] Peck, *Constructions*, 39-124.

Mellman to determine the extent to which the four respondents controlled the industry, and the ease at which a new entrant to the market could achieve economies of scale. These shifts in economic thinking are also evident in the statement of the director of the Bureau of Economics in 1981. The Initial Decision of Judge Berman states that:

> The Bureau Director has articulated his belief that the theory of Docket 8883 is inconsistent with the public interest because it "unavoidably extends Section 5 to condemn some forms of conduct that rationally flow from an industry's structure, and thus, to condemn the structure itself." Moreover, the Director states that the relief sought by complaint counsel would be anticompetitive, potentially resulting in inefficient behavior to the ultimate detriment of the consumer. (Director's Statement at 3-4).[62]

With this statement, and Judge Berman's Initial Decision, the FTC's investigation of the Matter of Kellogg Company et al. (Docket Item 8883) has come full circle. According to the FTC Act, in order to merit investigation, a Matter must 1) involve interstate trade, 2) come under the jurisdiction of the FTC as an unfair method of competition and 3) be in the best interest of the public. Berman states that the complaint fails to apply modern economic thinking to their theories on monopoly and competition. His initial decision cites economic facts that indicate that the Matter of Kellogg et al. does not fulfill the second or third requirement for action by the FTC.[63] Berman even uses the evidences of Areeda and Turner (the same thinkers employed to justify the complaint) to declare that action on the part of the FTC would not be in the best interests of the public.[64] Ten years earlier, Judge Hinkes interpreted economic facts in the opposite way. Thus the Matter of Kellogg et al. demonstrates a definite shift in the economic and political theory employed by the US State over that decade.

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[62] FTC, *Federal Trade Commission Decisions*, Vol. 98: 893.
[63] FTC, *Federal Trade Commission Decisions*, Vol. 99: 267.
[64] FTC, *Federal Trade Commission Decisions*, Vol. 99: 274.

The Significance of the Structure of the FTC and the Outcomes of Investigations

At the nexus of economic crisis, an already-existing body of radical-right academia, and threatened class of economic elites an ideological project was born, which shifted both policy and popular ideology towards neoliberalism. Also essential to this nexus, however, was the specific structure of the FTC (and other state institutions outside the scope of this paper)[65] that made them vulnerable to this project.

Within the FTC, the Matter of Kellogg et al. demonstrates these structural elements clearly. The first is the dependence of the FTC on the existing administration. The President is responsible for the appointment of the commissioners and the naming of the Chairman, which allows the executive office to construct a Commission that will conform to their own political agenda. This is demonstrated by the actions of the Miller Commission during the Raegan Administration, in contrast with the Pertschuk Commission during the Carter Administration. The second is the reliance of the Commission on the interpretation and decisions of individuals. Individuals such as the Chairman of the Commission, the Administrative Law Judge overseeing the case, and the investigators in the Bureau of Economics and the Bureau of Competition all have the power to directly sway the outcome of the investigations of the FTC. In the Matter of Kellogg et al. this effect is demonstrated by the words and actions of both Chairman Miller and Judge Berman to close this investigation, in contrast with the decisions of the Commission from the initial complaint all the way through the end of the Pertschuk's role

[65] Maclean, *Democracy in Chains*, 222.

as Chairman. The third is the process of investigation itself. The process of initial investigation, initial complaint, the decision of the ALJ to pursue the matter, the subsequent investigation and hearings, the initial decision of the ALJ, the appeals process of the Commission, the decision of the Commission, and (if an investigation makes it this far) a court's enforcement of the Commission's decision takes several years. In the Matter of Kellogg et al. it took nearly 10 years. This is more than enough time for changing economic theory to dilute the power of the initial complaint. Finally, the FTC Act allows for very limited actions in the case that a respondent is found guilty. If a respondent is found guilty, then the Commission can 1) issue a cease and desist order, 2) stipulate a certain course of action or 3) order a trade practice conference to help the whole industry reform[66]. It is significant that none of these positive actions can actually be enforced by the FTC. Only a court can mandate that a certain respondent actually comply to the FTC's decision. This renders the FTC impotent unless a Federal Court confirms their decision. On the other hand, a negative action, dismissing a case, serves to define whatever business practices were in question as legitimate ones. These dismissals can be used as precedent for future questions of the legality of competitive practices, and each dismissal serves to broaden the rights of corporations to practice as they choose, whether or not it may impede competition.

In the political and economic climate of the 1970s and 1980s, given the structure of the FTC as established by the FTC Act, the decision to dismiss the Matter of Kellogg et al. was practically inevitable. The events of this investigation confirm the existing theories of Harvey, Peck, Hall and MacLean: when economic crisis struck, the newly-

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[66] Blaisdell, *FTC*, 37-38

threatened economic elites constructed a viable ideological project from existing right-leaning academia which protected their own interests and consolidated both wealth and political power into their hands. This project relied on the reproduction of neoliberal thinking by academic institutions, by popular media, and by the state itself. As is demonstrated by the FTC's investigation of the Matter of Kellogg et al. the US bureaucracy was harnessed by this project. However, the structure of the FTC not only made it vulnerable to this project, it also made it an essential element for the progress of neoliberalization.

Conclusion: The Perpetuation of the Neoliberal Project

In the US legal system, judges rely heavily on previous investigations and cases when making their decisions as to the legality or otherwise of a case. In the Matter of Kellogg et al. Judge Berman cites previous FTC investigations that were tried by the Supreme Court in which the Court determined that the FTC had overstepped its powers, or determined that the respondents were not actually in violation of the law. Not only does this practice of relying on legal precedence tend to uphold the status quo and prevent any expansion of antitrust legislation, but has the effect of entrenching neoliberal economic practices deeper into the US state. The investigation into the Matter of Kellogg et al. also became a precedent setting case, as issues of oligopoly were established at this time as legal under the Sherman Act, the Clayton Antitrust Act, and the FTC Act. By dismissing this investigation, Berman denied that SMT was a valid interpretation of antitrust law. Miller, by refusing to appeal the decision, agreed. Shared monopolies have become proliferate within the US food-system since this the time of this investigation, as is noted by Wenonah Hauter's research, not only in the RTE industry but in all sectors of the system.

As demonstrated above, the FTC was vulnerable to the intellectual and ideological influences of the neoliberal project. As noted by Peck, the construction of neoliberalism began with abstract academic work, and shifted (according to Harvey and Hall) as that work gained political importance to a certain bloc which could mobilize ideological and political forces in their own interests. As argued by MacLean occurs in all US state institutions[67], and as demonstrated by my case-study, the structure of the FTC causes its decisions to tend to confirm the status quo, and the lasting impacts of those decisions tend to push US policy to the right. This, as is argued by Jessop, is partially due to the capitalist construction of the state. Significantly, the structure of the FTC, the power its decisions carry, and its role within the US bureaucracy also formed a positive-feedback loop with the neoliberal project. FTC played an essential role in the codification and legitimization of neoliberal economic policy and practice.

Abstracting the implications of the rejection of SMT from the food industry, the dismissal of this case brings oligopolistic control of industry into the legal domain. It legitimizes business practices that hold prices above their "natural" market determined levels, as well as practices which prevent new producers from entering into the market. This legitimization of what left-leaning thinkers attempted to establish as illegal anticompetitive practices was essential for the continuation of the neoliberal project. Due to its structure and its function within the US state, the FTC was an essential element of

[67] MacLean, *Democracy*, 122-126

the continuation of the Neoliberal project due to its legitimization of oligopoly, and its codification of neoliberal economic thinking into US antitrust policy.

Bibliography

Becker, James F 1971. "On the Monopoly Theory of Monopoly Capitalism." *Science & Society* 35, no. 4 : 415-38. http://www.jstor.org/stable/40401601.

Blaisdell, Thomas C. 1932. Federal Trade Commission: An Experiment in the Control of Business. New York, Columbia University Press.

Burnam, David. "The Washington Report." *The New York Times*, March 20, 1977

Chamberlin, E. 1946. *The theory of monopolistic competition : A re-orientation of the theory of value* (5th ed., Harvard economic studies ; v. 38). Cambridge: Harvard University Press.

DeMarco, C. W. 2001 "Knee Deep in Technique: The Ethics of Monopoly Capital." *Journal of Business Ethics* 31, no. 2: 151-64. http://www.jstor.org/stable/25074525.

Dugger, William M. 1976 "Ideological and Scientific Functions of the Neoclassical Theory of the Firm." *Journal of Economic Issues* 10, no. 2: 314-23. http://www.jstor.org/stable/4224490.

Federal Trade Commission, *Federal Trade Commission Decisions*. Vol. 80-99: Docket #8883. 1971-1982. Online, accessed January 2018.

Food and Water Watch, 2018. "Public Research Private Gain." https://www.foodandwaterwatch.org/insight/why-antitrust-laws-matter-agriculture-and-food. Accessed October 2018.

Food and Water Watch, 2018. "Why Anti-Trust Laws matter for Argiculture and Food." https://www.foodandwaterwatch.org/insight/why-antitrust-laws-matter-agriculture-and-food. Accessed October 2018.

Hansen-Kuhn, Karen, 2018. “New NAFTA” Puts the Breaks on Farm Reform.” Institute for Agrucultural and Trade Policy. https://www.iatp.org/documents/new-nafta-puts-brakes-farm-policy-reforms. Accessed October 2018.

Hall, Stuart, 1979. “The Great Moving Right Show.” Selected Political Writings: 172-186

Harvey, David 2005. *A Brief History of Neoliberalism*. New York: The Oxford University Press Inc.

Hauter, Wenonah, 2012. *Foodopoly.* New York: The New Press.

Jessop, Bob, 1990. *State Theory: Putting Capitalist State in the Place*. University Park PA: Pennsylvania State University Press.

Liliston, Ben 2018. “Agri-business First: Trump’s farm policy.” Institute for Agriculture and Trade Policy. Accessed October 2018.

Marshall, Alfred 1998. "EXEMPLAR OF NEOCLASSICAL ECONOMIC THOUGHT." In *The Academic Scribblers*, by Breit William, Ransom Roger L., and Solow Robert M., 19-28. PRINCETON, NEW JERSEY: Princeton University Press. doi:10.2307/j.ctt7zvbf2.8.

McLean, Nancy 2017. *Democracy in Chains*. New York: Penguin Random House, LLC.

Neff, Roni (Ed.) 2015. *Introduction to The U.S Food System.* San Fancisco, CA: Jossey Bass.

Nestle, Marion. 2013. “Influencing Government: Food Lobbies and Lobbyists” in *How the Food Industry Influences Nutrition and Health*, 95-110. Berkely: University of California Press.

Peck, Jamie 2012. *Constructions of Neoliberal Reason*. New York: The Oxford University Press.

Peterson R.D, 1979. "Chamberlin's Monopolistic Competition: Neoclassical or Institutional?" *Journal of Economic Issues* 15 no. 3 : 669-686. Taylor & Francis, Ltd

Potts, Mark, and Michael Isikoff. "Pertschuk Exits FTC with Guns Blazing." *New York Times*, Sept. 25, 1984

Sayers, Joseph D. 1899 "Anti-Trust Legislation." *The North American Review* 169, no. 513: 210-17. http://www.jstor.org/stable/25104861.

Smith, Trenton G., and Attila Tasnadi. 2014. "The Economics of Information, Deep Capture, and the Obesity Debate." *American Journal of Agricultural Economics* 96 (2): 533–41. doi:https://academic-oup-com.ezproxy.whitman.edu/ajae/issue.

Suppan, Steve 2018. "Rightsizing: Regulation and Regulatory Programs" Institute for Agriculture and Trade Policy. Accessed September 2018

Treat, Sharon. 2018. "The New NAFTA imposes hurdes to delay and weaken consumer protection." Institute for Agricultural and Trade Policy. https://www.iatp.org/documents/new-nafta-imposes-hurdles-delay-and-weaken-public-protections. Accessed September 2018

Waterhouse, Benjamin C. 2014 "EPILOGUE: American Politics, American Business." In *Lobbying America: The Politics of Business from Nixon to NAFTA*, 255-64. Princeton University Press. http://www.jstor.org/stable/j.ctt5hhpj7.13.

West, E. G. 1978 "The Burdens of Monopoly: Classical versus Neoclassical." *Southern Economic Journal* 44, no. 4: 829-45. doi:10.2307/1057732.

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