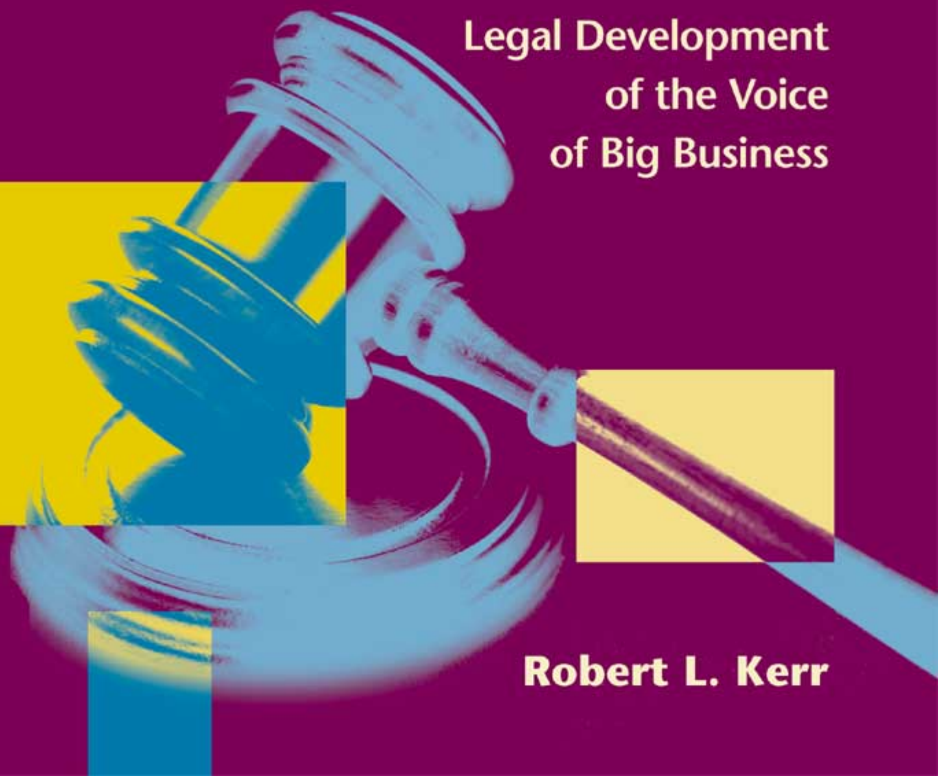
LAW AND SOCIETY

The Rights of Corporate Speech

Mobil Oil and the Legal Development of the Voice of Big Business



Robert L. Kerr

Law and Society
Recent Scholarship

Edited by Eric Rise

A Series from LFB Scholarly

This page intentionally left blank

The Rights of Corporate Speech
Mobil Oil and the Legal Development of the Voice of Big Business

Robert L. Kerr

LFB Scholarly Publishing LLC
New York 2005

Library of Congress Cataloging-in-Publication Data

Kerr, Robert L.
The rights of corporate speech : Mobil Oil and the legal development of the voice of big business / Robert L. Kerr.
p. cm. -- (Law and society : recent scholarship)
Includes bibliographical references and index.
ISBN 1-59332-070-1 (alk. paper)
1. Corporate speech--United States. 2. Corporations--Political activity--Law and legislation--United States. 3. Mobil Oil Corporation--Political activity. I. Title. II. Series: Law and society (New York, N.Y.)
KF4772.K468 2005
342.7308'53--dc22

2004023825

ISBN 1-59332-070-1

Printed on acid-free 250-year-life paper.

Manufactured in the United States of America.

To my parents, Richard and Rowena Kerr,
for their endless love, patience, and encouragement.

This page intentionally left blank

Table of Contents

This page intentionally left blank

Acknowledgements

I would like to thank Peter A. Coclanis, Lloyd S. Kramer, Anne Johnston, Dulcie M. Straughan, and Margaret A. Blanchard for their many contributions in helping shape the thinking and research that ultimately produced this volume. I regret that Dr. Blanchard's untimely death in 2004 denied her the opportunity to see this work come to fruition. I am also most grateful to Jane McConnell for her immeasurable role in helping advance my understanding of the difference between journalism and scholarship.

I am thankful for the fellowship opportunity afforded me by the Park Foundation to complete my doctoral work at the University of North Carolina at Chapel Hill. I also would like to thank — for their insights, kindness, and other helpful contributions in the years when my work on this project was in its formative stages — Donald Shaw, Ruth Walden, Pat Curtin, Ferrell Guillory, Phil Meyer, Deb Aikat, and Cindy Anderson.

And I am deeply appreciative to Dean Charles Self, Director of Research Fred Beard, and so many of my other colleagues for their mentorship and for their efforts to cultivate a research-oriented culture in the Gaylord College of Journalism and Mass Communication at the University of Oklahoma. Their support has been crucial as I worked on this book and other research as a faculty member here.

This page intentionally left blank

CHAPTER ONE

The Ideology of Corporate Citizenship

In September of 1980, Mobil Oil published a paid message in the lower righthand corner of the *The New York Times* op-ed page thanking the newspaper's management for "a great contribution to the free market of ideas." The statement was not intended as any general comment of approval on the *Times*' editorial product. Rather, it was a very specific expression of gratitude for providing the "soapbox" 10 years before that had enabled Mobil to become the most prominent corporate voice of the 1970s.[1] Over the course of the decade, the oil company made the *Times* op-ed page the focus of a groundbreaking advocacy strategy to promote interests that went far beyond its immediate business objectives. Mobil's *Times* editorial-advocacy campaign of the period vigorously essayed to legitimize corporate speech as an activity fully embraced by the First Amendment, utilizing discourse that consistently framed the corporate role in democratic processes as no less than *identical* to that of the individual citizen. This was a radical assertion at the beginning of the seventies, but by the end of the decade Mobil's efforts represented the ideological vanguard of an historic expansion of the right and practice of corporate speech.

The decade of the 1970s was marked by a significant effort on the part of "big business" in the United States to address what it viewed as an imbalance unfavorable to business interests in the marketplace of ideas. This venture by business interests to assert a more influential voice in American political discourse represents one of the most recent and important chapters in the history of corporate efforts to shape public opinion. Advocacy media campaigns such as Mobil's were among the most prominent components of the effort, as were legal campaigns in American courts to establish greater constitutional protection for corporate speech rights. Although other corporations produced advocacy messages in the seventies, none spoke so regularly on so many issues of public policy as Mobil did during that period.

Despite attention given to many aspects of the Mobil campaign as a public relations vehicle or advertising, little analysis has considered it more broadly in terms of its significance for intellectual and legal history — particularly Mobil's efforts to reframe understanding of the marketplace of ideas in First Amendment theory and practice.

A series of landmark U.S. Supreme Court rulings in the late twentieth century greatly enhanced the role of corporate speech in American political discourse. (The term "corporate speech" refers to media efforts by corporations that seek to affect political outcomes or social climate — in contrast with "commercial speech," which promotes products or services. Although corporations exercise both these types of speech, each represents a distinct body of law and scholarly interests.) Beginning with *First National Bank of Boston v. Bellotti* in 1978, the Court established a level of First Amendment protection for corporate speech that, despite some narrowing more recently, remains only slightly less than that of the constitutional protection for individual speech.[2] Thus, the decade of the 1970s represents a period in which corporate speech advanced significantly in terms of both a constitutional right and a more robust practice, providing the corporate voice much greater legitimacy in American democracy. Corporate-advocacy messages from the period, particularly Mobil's, reflect a concerted effort to symbolically establish the corporation as a viable citizen in modern democracy, and Supreme Court decisions from the same period offer no impediment to that endeavor.

This study analyzes symbolic meaning in the content of significant sources of media and legal discourse that originated during that decade. The analysis includes the discourse contained in opinions that judges issued and in briefs submitted by lawyers. Both groups of documents expressed key arguments in the Supreme Court decisions on corporate speech and can be read as historical artifacts offering evidence of themes critical to understanding the subject of this inquiry. Emphasis in this analysis is also focused on the innovative, editorial-page campaign of issue advocacy begun by Mobil in 1970. Those messages were published on the editorial pages of *The New York Times* and other major newspapers and were packaged similarly to other opinions and commentaries published on editorial pages of the day. Mobil's *Times* advocacy efforts are particularly useful for this sort of study because cumulatively they represent the period's richest body of corporate-speech artifacts both in number and in their almost exclusive focus on influencing political and social outcomes. The Mobil campaign — which continues to some extent today, but is less prominent — also has been influential in contributing to greater numbers of corporate advocacy campaigns.[3]

Mobil was such a prominent figure in the development and expression of corporate speech and corporate-speech rights in the 1970s that historian Walter Berns titled an essay he published at the end of the decade on the connection between economic and political liberty "The Corporation's Song: Book and Lyrics by Hobbes, Locke, and Madison. Music by Mobil Oil?"[4] Less than a month after the Supreme Court's landmark ruling in *Bellotti*, a vice president for Mobil told Congress that corporate speech should be entitled to the same First Amendment protections as news media, arguing that the speech of oil companies was as valid as that of newspapers.[5]

Corporate speech has not been granted *precisely* that level of First Amendment protection, despite its gains in the courts over the past quarter-century. Mobil, however, was an active participant in the debate over corporate-speech rights — to the extent of filing amicus curiae (friend-of-the-court) briefs in support of corporate interests in some of the landmark Supreme Court corporate speech cases — as well as in the actual expression of corporate speech. "Individuals have the right of free speech; so do groups of individuals," a Mobil executive declared in 1978. "If these individuals are banded together in a membership corporation and find that they can be more effectively heard when they speak through the corporate voice, then this too is their constitutional right."[6] Mobil was never a plaintiff or a defendant in a corporate-speech case, and its concept of the corporate citizen was not itself ever literally reviewed by the Supreme Court. Yet by the end of the seventies, neither had the Court in its pronouncements on corporate speech contradicted the theory that the corporation was every bit as legitimate a part of democratic processes as were human individuals. Historically, Mobil in its advocacy emphasis caught an ideologically powerful wave just as it was beginning to surge forward.

Advocacy efforts such as Mobil's represent recent stages of a century-long evolution in corporate activities to shape public opinion. The dramatic rise of the American corporation after the Civil War led over time to the rise of big government and a crisis of legitimacy for big business that spurred escalation of corporate efforts to influence public opinion. Rather crude and not very successful early corporate attempts to influence public opinion eventually evolved into highly effective public-relations campaigns in the twentieth century. That process would accelerate more sharply than ever in the tumultuous decade of the 1970s.

THE AMERICAN CORPORATION AND PUBLIC OPINION

Over the course of the nineteenth century, the rise of the American corporation reshaped not only the nation's economic system but many legal, political, and cultural institutions as well. Corporate influence on public opinion in the United States accelerated throughout the twentieth century, characterized by greatly expanded and ever more sophisticated public-relations efforts. That process represented a dramatic evolution of the use of the corporate form, whose origins date to imperial Rome and the medieval church. Both those institutions maintained authority by requiring that associations and corporate bodies obtain official sanction. "In every state of society, from Rome to the present day, where social, economic and business life tends to become complex and intricate, and where the need for cooperation and collective endeavor becomes manifest," Maurice Wormser concluded in his history of the corporation, "there the idea of the corporation bursts forth into being and use, as irrepressible as a natural force."[7] Early corporations in the United States at first followed the inherited British tradition of requiring an act of governmental charter in order to acquire corporate status. From the 1780s into the mid-nineteenth century, business corporations in the United States were most often public utilities created to provide inland navigation, turnpikes, toll bridges, banks, insurance companies, and municipal water services.

In the second half of the nineteenth century, however, the United States moved to employ the corporate instrument "on a scale far beyond England," building public policy regarding the corporation "almost wholly out of our own wants and concerns, shaped primarily by our own institutions."[8] The traditional special-charter procedures began to be abandoned in favor of standardized, general-incorporation acts in the 1870s and 1880s. This made incorporation routinely available to any lawful business simply by completing the required administrative procedures, a trend that greatly accelerated the adoption of the corporate form by American businesses. Also critical to the development of the business corporation in America were actions by the U.S. Supreme Court, which, beginning early in the nineteenth century conferred many rights guaranteed to individuals by the Constitution on corporations as well.

In 1809, corporations were determined to have the same access to the courts as individuals.[9] A decade later, in *Dartmouth College v. Woodward*, the Court established the basis for separation of corporation and state, asserting that a corporation "is no more a state instrument than a natural person exercising the same powers would be."[10] In 1839's *Bank of Augusta v. Earle*, the Court limited constitutional protection available to the business corporation by ruling that a corporation was not a citizen within the meaning of Article Four's provision entitling citizens of each state to all privileges and immunities of citizens in the other states.[11] After the Fourteenth Amendment was enacted in 1868, however, prohibiting states from depriving "any person of life, liberty, or property without due process of law," or denying "any person . . . equal protection of the laws," the Supreme Court in 1886 and 1889 "quietly accepted the proposition that a corporation was a 'person' within these guarantees."[12]

In the late nineteenth and early twentieth centuries, many Americans saw in the growing power of the corporation a "seismic shift" in the balance of social forces. Popular opinion began to develop that big business was threatening to become "that very centralized power against which the Founding Fathers had fought their revolution."[13] Through most of the nation's first century, even the largest factories employed no more than a few hundred workers and even the largest manufacturing companies were usually capitalized at less than $1 million. Beginning with the railroads in the 1850s and then moving into manufacturing and distribution later in the century, however, a revolution transformed American business within a single generation. By 1890, several railroads employed more than 100,000 workers each. Standard Oil was capitalized at $122 million by 1900 and the American Tobacco Company at $500 million by 1904. The 1901 creation of U.S. Steel through the merger of a group of corporations in the industry represented a $1.4 billion transaction.[14]

Between 1897 and 1904, such mergers were responsible for reducing 4,227 companies into 257 corporations. By the end of that period, 318 corporations controlled as much as two-fifths of the country's manufacturing assets.[15] Alarm among Americans at what it meant for so much power to be concentrated in so few hands created what historian Roland Marchand called "a crisis of legitimacy" for big business. The bewildering pace of corporate expansion meant that many corporations "controlled the market as much as they were ruled by it. . . . The traditional potency of the family, the church, and the local community suddenly seemed dwarfed."[16]

Out of this crisis of legitimacy would rise both public relations as a profession and corporate efforts to influence public opinion, two phenomena that have paralleled each other closely and often merged since the late nineteenth century. Both developed out of the rapid growth of the corporation as a dominant institution of society over that period, as well as out of broader social trends that generated theoretical and then practical concepts for managing modern democratic societies through the use of mass media. This nexus between the development of public relations and corporate efforts to influence public opinion has been clearly identified by public relations historians such as Scott Cutlip. He wrote that the practice of public relations was produced most directly from the conflict that developed between the phenomenal growth in corporate power late in the nineteenth century and the corresponding growth of public concern over corporate influence on society.[17] Indeed, intellectual historian Merle Curti said that the rise of the public-relations specialist was inevitable once modern society became characterized by large organizations with critical needs to influence public opinion.[18]

The historical forces that contributed to that linkage between public relations and corporate efforts to influence public opinion included dramatic, turn-of-the-century changes in social life and media influence. The middle-class American public of the late nineteenth and early twentieth century had changed dramatically from the eighteenth-century public that was shaped by the American Revolution. Since that earlier time, the focus of American social life had shifted from the town square to the home parlor, contributing to greater isolation for most Americans and the development of a disembodied public sphere that was shaped not by discourse among citizens but by the increasing influence of mass media. As the twentieth century approached, newspaper circulations rose sharply, and newspaper chains grew larger, meaning that increasing numbers of Americans received identical constructions of mediated reality on a daily basis. That trend was joined by the rapid growth of popular magazines, several of which reached unheard-of circulations topping one million early in the twentieth century.[19]

This unprecedented reach and influence of mass media developed at the same time as the crisis of legitimacy that began to confront big business critically around the turn of the twentieth century. Popular fears were compounded by extensive reports of corporate abuse and scandal that came to be a staple of the newly empowered mass media. The late nineteenth century and early twentieth century saw the rise of utopian, progressive, and muckraker journalism, which sought to apply the standards of public life to private business activity. The American experience and its historical commitment to equality had "fostered a public opinion instinctively jealous of concentrated power of any sort."[20] This helped fuel a "remarkable literature of indignation" that flourished around the turn of the century, including Ida Tarbell's 1904 *The Standard Oil Company* and Henry Demarest Lloyd's 1894 *Wealth Against Commonwealth*. Both targeted John D. Rockefeller and his Standard Oil Company, the largest corporation in the world. The latter work has been characterized as: "to the antitrust movement what Harriet Beecher Stowe was to the antislavery crusade."[21] General public discourse since early in the history of the petroleum industry in particular has regularly characterized it as "monopolistic, overpowerful, speculative and risky, conspiratorial, wasteful, disorderly, out to gouge consumers, out to corrupt government, and, in general, a threat to public welfare," historians Roger and Diana Davids Olien found.[22]

The concerns about big business focused upon the growing perception of the lack of a corporate "soul." By that expression, Marchand found, citizens of that time could mean many things, but they worried most about the inability of the giant corporations to maintain a personal relationship with human beings. They feared that Americans were being reduced simply to "units of consumption" by the corporations.[23] Efforts to regulate the excesses of the giant corporations and trusts began as early as the 1870s, in what Thomas McCraw characterized as the first of the four major periods of regulation activity in the United States.[24] As small businesses and farmers were brutally displaced in the late nineteenth century, they led a populist movement demanding government action. "A new political agenda emerged, and the adversarial business-government relationship in America was born . . . strictly between government and big business," said McCraw, who has written extensively on the history of government regulation of business. The Progressive Era (1901-1914) "recast the American experience as a continuous contest between public and private interests; that is to say, between right and wrong."[25] Just as big business rose in the United States sooner than anywhere else, America was the only nation to enact regulatory legislation directed specifically against big business so early. Congress enacted major regulatory legislation, including the Interstate Commerce Act in 1887, the Sherman Antitrust Act in 1890, the Tillman Act in 1907, and the Federal Trade Commission and Clayton Acts in 1914.[26] By the early part of the twentieth century, a series of Supreme Court decisions on balance had upheld enough of the regulatory legislation to bestow government with power on a scale closer to that of big business.[27] This culminated with the landmark breakup of Standard Oil in 1911 for violation of restraint of trade and monopoly provisions of the Sherman Antitrust Act through unlawful restraint of trade.[28] The same year, the Supreme Court also broke up the American Tobacco Company for similar antitrust violations.[29]

It must be noted that historically at least some regulation has been accepted if not welcomed by business interests as necessary for market stability and coherence, with regulation efforts often critically influenced and shaped by those interests. Nevertheless, public opinion has played an undeniable role — rightly or wrongly — alongside economic forces in shaping government regulation of business activity in the United States. Throughout all the major periods of regulatory activity and in all the major areas of regulation, economic historians find, public opinion and American ideals have maintained critical influence in shaping the course of events: "What Americans have believed, since our beginnings, about the proper relationship between the people as a nation and the people as individuals going about their business is one of the three or four great pillars of the edifice we call history."[30] Underlying ideological concerns "between centralization and decentralization, competition and cooperation, and individualism and communalism in American thought have been at the core of every debate over the proper role of government in regulating market relations."[31] The Sherman Anti-Trust Act has been called "as much a political and social measure as an economic one,"[32] and some historians have contended that "economic doctrines have never as much influenced the making of American economic policy as have political and constitutional considerations."[33] McCraw concluded that "regulation is best understood as a political settlement, undertaken in an effort to keep peace within the polity."[34]

Early efforts by the great business corporations to respond to the anti-business trends in public opinion and government regulatory activity were characterized by "corporate welfare" efforts, in which employees were provided with various benefits that could include housing, medical care, child care, stock sharing, profit sharing, pensions, and entertainment. Though not common among corporations during that period, some of these efforts were widely noted. For example, the establishment of such benefits at Colorado Fuel and Iron late in the nineteenth century initially generated favorable publicity for the Rockefellers when they bought the operation in 1903. The labor unrest that led to the 1914 Ludlow Massacre indicated the limits of corporate welfare for image-making, although evidence does suggest that the Rockefellers' reduction of such benefits may have contributed to the intensity of the labor conflicts. National Cash Register had tremendous success with its corporate-welfare program around the turn of the century. The program had been launched to reduce labor unrest, but it received such widespread media attention that NCR became a leading advocate of such programs to improve public opinion toward corporations. After the giant mergers that produced U.S. Steel and International Harvester early in the twentieth century, both corporations launched publicized corporate-welfare programs, which seem to have reduced (though not eliminated) labor strife and government antitrust activity targeted at the firms in that period.[35]

CORPORATE DEVELOPMENT OF PUBLIC RELATIONS

The corporate response to the crisis of public legitimacy that would have greater influence was the increased use of professional communicators, most often referred to as publicity specialists in the beginning and eventually known as public-relations practitioners.

Although Westinghouse utilized publicists as early as the 1880s, the most prominent early manifestation of the public-relations profession is considered to be the formation of an agency by George Parker and Ivy Lee in 1904. It was the most successful of the many such firms that would develop early in the twentieth century. They utilized the progressive journalists' language of social reform in their efforts to influence public opinion on behalf of their business clients. Their early efforts frequently failed, partly because the messages too often represented simply an effort to manufacture whatever might pass publicly as truth. Also crippling to those public-relation efforts, however, was the fact that too often their corporate clients refused to actually change any of the behaviors that were responsible for creating public concern.[36]

A significant exception among public-relations efforts of the period was that of AT&T, whose CEO Theodore Vail was one of the earliest business leaders to articulate the need for corporations to actively monitor and seek to influence public opinion. In 1908, AT&T launched a landmark campaign that is considered the forerunner of modern corporate-advocacy advertising and the leader in the effort to establish a working substitute for a corporate "soul" by the 1940s. Key to the success of the campaign, which ran for some thirty years, was that it was conceptualized from the start and at the highest levels of management as not an experiment or short-term effort, but a long-term policy. The theme of the campaign was that all of America should be served by one telephone company, one provider of the vital communication link for all communities. The messages emphasized language and images that represented AT&T as working endlessly to make that service something that Americans could count on anywhere and anytime. The campaign successfully established an ideology of universal service among both external and internal publics of AT&T, and it has been credited with virtually muting public support for government antitrust efforts against AT&T during that period.[37]

Public-relations practices and corporate efforts to shape public opinion were also influenced formatively through the United States' participation in World War I. George Creel, a journalist and close advisor to President Woodrow Wilson, was a leader among Washington insiders who feared that the great numbers of new immigrants to the United States would not support the American war effort in Europe.

When Wilson appointed Creel civilian director of the Committee for Public Information, he organized a hugely successful propaganda effort that employed the forces of public relations, advertising, and entertainment to promote the war as vital to saving the world for democracy. Although the effort produced a backlash of distrust and suspicion after the war when Americans learned more about the manipulative and often misleading techniques the CPI employed, its success nonetheless influenced other public-relations efforts to come.[38]

After the war, business leaders utilized many of the CPI's techniques that had been successful in influencing public opinion. They had seen the opportunities available to sell their ideas and policies along with their goods and services. Public relations began to gain much wider acceptance and institutionalization in the management structure and strategy of large corporations. Two particularly influential campaigns launched in 1923 were built around themes of corporate giants as great benefactors of society. General Motors emphasized images of family and community in its "Making the Nation a Neighborhood" campaign. General Electric constructed an ideology of electricity as the pinnacle of human advancement in representing GE's corporate mission as "Lighting the World."[39]

The post-World War I period also saw the rise of Edward Bernays and his influential role in shaping corporate communications efforts that would contribute to his general acceptance today as the "father" of public relations. He had worked as an entertainment publicist and then — along with many other future public-relations practitioners — on the Committee for Public Information during the war. Bernays had been deeply impressed by the Committee's propaganda efforts, and his thinking was also shaped by his interest in social psychology. He was a double nephew to Sigmund Freud — Bernays' mother was Freud's sister, while his father's sister was Freud's wife — and Bernays was close friends with the pioneer psychoanalyst. The two had deep discussions on Freud's theories of how unconscious drives influence human behavior. Biographer Larry Tye concluded that Bernays "borrowed his uncle's insights into symbols and other forces that motivate people" in developing his concepts on public relations, but "while Freud sought to liberate people from their subconscious drives and desires . . . [Bernays] sought to exploit those passions."[40] In 1919, Bernays and his wife Doris Fleischman opened their highly successful public-relations agency, where the phrase "counsel for public relations" was coined in 1920. Bernays was the first to conceptualize public relations as a process of interpreting organizations for their publics and interpreting publics for organizations.[41]

Bernays was deeply influenced by an aristocratic family heritage that contributed to his basic assumption that it was necessary for the upper classes to maintain control of society.[42] His writing also reflects an assumption that it is necessary for business to maintain control of public opinion in order to prevent intrusion by government or the public in business matters. Bernays warned business that it must defend itself against the "menace" of government regulation and taxation and continually take measures to prevent public interference with its operations. Bernays' 1923 *Crystallizing Public Opinion* was among some thirty books on public opinion that were published in the decade or so after World War I. Bernays emphasized that public opinion could ultimately be influenced effectively only through a strategy of communicating with the groups or publics that existed or formed around issues critical to the organization. Bernays also stressed the way that individuals were influenced by the "herd" mentality of groups but might belong to many different and subject-to-change groups, and how the values of groups tended to be represented by stereotypes that could be utilized by public-relations practitioners to influence public opinion.[43]

Bernays emphasized the way that public opinion was formed through an interactive process between publics and opinion makers. Both leaders and organizations were influenced by the publics whom they seek to influence, he maintained, and this mutual process operated even among mass media, which must reflect their publics' interests at the same time they were shaping those interests. The key to influencing public opinion, for Bernays, was to enlist ideas already held by key publics and to associate those ideas with the interests that one seeks to promote. Although it was quite possible to influence public opinion, Bernays cautioned, it was impossible to succeed by running counter to public opinion, even for the most powerful of business corporations.[44]

In the 1930s, the ability of both government and business to engineer consent would be challenged more greatly than ever before. Deep doubt and mistrust were created toward both by the economic suffering and social dislocation wreaked by the Great Depression.

Government was first to respond effectively as Franklin Roosevelt, after being elected president in 1932, proved a natural publicist for his New Deal programs. Roosevelt began to shape the federal government as a national clearinghouse for information and ideas to serve the public good. Government was promoted as the means to redress the imbalances created by corporate business excess on which Roosevelt publicly blamed the Great Depression. The overriding theme of his New Deal emphasized judging economic activity on the basis of the degree to which it served the greater good of the nation. Although not all New Deal programs were successfully instituted, on balance the period resulted in much greater government regulation of business as well as unprecedented government support for the rights of organized labor.[45] The shift in federal policy has been described by legal scholar Arthur Miller as implementation of the positive state, "a shorthand term for the express acceptance by the federal government — and thus by the American people — of an affirmative responsibility for the economic well-being of all."[46]

During the Great Depression, a new wave of regulatory activity produced what many consider the single most significant Supreme Court decision regarding the balance of power between big business and big government. In *National Labor Relations Board v. Jones & Laughlin Steel* in 1937, the Court established a watershed New Deal doctrine in upholding the constitutionality of the 1935 National Labor Relations Act. The act provided regulatory protections for unions, including government-supervised elections within factories to determine whether workers wanted a union and a ban on employer interference with organizing efforts.[47] After 1937, Court doctrine allowed Congress to pass legislation affecting virtually every aspect of the conduct of business in the United States.[48] The developments of the New Deal Era meant that "the national government had assumed authority to regulate business in order to check the market power of large corporations," in the assessment of George David Smith and Davis Dyer. "Regulatory agencies and congressional committees, increasingly populated with lawyers, exercised their oversight functions as an adversary process."[49]

In light of these developments, advertising executive Bruce Barton warned corporate leaders that they could not expect to win back public opinion simply by criticizing the New Deal. He told them that, from then on, big business would be required to court public opinion in the same way that politicians did. The corporations did begin to respond with individual campaigns that more greatly emphasized their social responsibility in various ways. But even more significantly, big business began to coordinate its efforts with greater effectiveness. This occurred most prominently through the National Association of Manufacturers, a trade organization dating back to the nineteenth century, which was revamped in the early 1930s to focus on winning public support for big business. This was done in response partly to the New Deal and more broadly to the threat of growing government regulation, greater public awareness of corporate efforts to influence public opinion, and widening popular support for socialism as the answer to the economic woes of the period. NAM's most influential effort of the thirties was its "American Way" campaign, which through extensive media messages constructed an ideology of free enterprise as the protector of the freedom of individuals against what was characterized as the oppression of government. Further, NAM developed highly effective grassroots networks by organizing groups of community leaders across the nation in local efforts to promote the role of business in American life.[50]

The business community grew more successful in influencing government in the post-World War II era. The war had seen the beginnings of public opinion improving toward the corporate giants as they provided industrial and organizational might that helped drive the successful American war effort. Those contributions enabled the corporations to demonstrate their patriotism and vital role in preserving freedom. Additionally, more than 100,000 Americans had been trained in the Office of War Information and other government publicity offices, and many of them would go on to work in public relations after the war. Research has indicated that the Hill and Knowlton advertising agency was involved in substantial efforts during this time to amplify the voice of industry and educate Americans on the role of big business, but proved more successful on behalf of clients like the tobacco industry than in influencing broader discourse.[51] Although opinion polls showed suspicion of business continued,[52] the generally favorable public image of big business in the postwar era was enhanced by soaring affluence in the United States and the corporations' ongoing image campaigns to promote their support for civic causes and for democracy, especially during the cold war. President Dwight D.

Eisenhower's administration has been described by historian Robert Griffith as "the corporate commonwealth," promoting "a deeply conservative image of a good society in which conflict would yield to cooperation, greed to discipline, coercion to self-government."[53]

DRAMATIC SEVENTIES ACTION BY BIG BUSINESS

After the relative stability of the Eisenhower era, the government-business relationship went through much greater evolution in the 1960s and 1970s. The period saw the rise of public-interest activism sparked at least in part by corporate roles in environmental, consumer, and civil-rights problems, followed by the economic decline of 1970s — the nation's worst since the 1930s. That decline was characterized by energy shortages, skyrocketing inflation, and sharply increased competition for U.S. corporations from Japan, Germany, and other nations recovering from their postwar devastation. Public interest in consumer, environmental, and civil-rights issues in the early 1960s coalesced with a decline in public confidence in business during President Lyndon Johnson's Great Society, and regulatory activity began to increase. The trend continued and had the greatest impact in the late 1960s and early 1970s with the enactment of a number of major regulatory initiatives to protect the environment, consumers, and workers, followed by vigorous executive and judicial enforcement.[54]

In addition to the great body of regulatory legislation that was passed during the period, American corporations faced an array of other problems, including energy shortages and sharp price increases, the economic downturn in the mid-seventies, substantial research findings on environmental and health problems related to corporate activity, pressure for social responsibility, and widespread cynicism in the wake of Vietnam and Watergate. The regulations of this era represented a break from the past in that a great number of the new laws were not industry-specific, as had almost always been the case before, but applied to business in general. For a while, the new approach created considerable confusion and disarray among various industries and trade associations that in the past had had relatively fewer occasions to create ongoing political alliances that crossed industrial lines. In time, however, "as big businessmen became increasingly aware of the fact that they needed new avenues of collective and individual access into government to influence the formulation and implementation of regulatory legislation, they began evolving new types of lobbying and advisory groups to accomplish their goals."[55]

That regulatory period was distinguished from previous periods of heightened regulatory activity, business historian David Vogel concluded, in that "there was a quantitative and qualitative increase in the scope and intrusiveness of federal controls over corporate social performance . . . and most critically, in sharp contrast to both the Progressive Era and the New Deal, government social regulatory policy became far more politicized."[56] In the 1970s, big business "changed dramatically the manner in which it engaged the political process."[57] Between 1968 and 1978 the number of corporations with public-affairs offices in Washington increased from some 100 to more than 500. By 1980 more than 80 percent of the Fortune 500 companies had their own Washington offices, with more than half of them created after 1970.[58] The unprecedented mobilization of business interests focused on successfully defeating major regulatory bills in Congress and effectively lobbying to influence the drafting of others. The 1960s-70s era of heightened regulatory activity thus faded markedly during Jimmy Carter's presidency and ended with the inauguration of Ronald Reagan, elected on an anti-government, pro-business platform in 1980. The heightened corporate advocacy efforts in the seventies have been characterized as part of a broader effort to "restore order" on the part of authority interests whose hegemony had been challenged in the sixties.[59]

Thus, the evolution of corporate efforts to influence public opinion is one with deep roots in American history, extending throughout the course of the twentieth century. As this discussion has highlighted, those corporate efforts intensified in the 1970s in response to what big-business interests perceived as anti-business sentiment and excessive regulation. It is important to emphasize that such perceptions of an unfavorable balance in the marketplace of ideas on the part of business interests are discussed in this study as motivating influences, rather than as uncontested facts. Obviously, many other interests did not at all perceive that big business was regulated excessively or was being subjected to unjustified criticism in the period under study. For example, early in the 1970s, *The New York Times* editorialized that too many government regulatory agencies had in fact "become captives of the industries they are supposed to regulate" and that better ways of limiting corporate power were needed.[60] Certainly, the advocates of the public-interest legislation of the sixties and seventies did not view their activities as a threat to business interests but as a benefit for the greater common good. This study does not endorse the perceptions or the advocacy efforts of big business that are discussed herein but seeks to analyze significant aspects of those perceptions and efforts.

The discourse and activities of corporate speakers such as Mobil were often the subject of sharp criticism and opposition in the seventies. When Mobil used advocacy messages to argue that oil companies should be deregulated in order to more forcefully respond to the energy crisis of the seventies, for example, many in Congress not only fought for years for more regulation but in some cases to break up the oil companies into smaller, less powerful entities. When the Business Roundtable, a powerful corporate advocacy organization formed in the 1970s, actively worked to block the establishment of a federal consumer-protection agency midway through the decade, other interests worked in favor of the proposed agency so arduously that the battle lasted years and was ultimately decided by a very narrow margin in Congress. Governments fought throughout the course of the seventies to regulate corporate speech, most prominently in the series of cases that produced the landmark Supreme Court rulings of the period. Undeniably, corporations have long been viewed by many people as potentially damaging forces in American life, and the seventies were no different in that regard.

On balance, however, the causes that corporate interests advocated were more successful than those of their opponents during the seventies. Certainly, as will be discussed in more detail in the following chapters, business interests claimed more major victories in Washington in the seventies than in the sixties — in Congress on a variety of legislation and in the courts in the corporate-speech decisions. Efforts to expand constitutional rights for corporate speech were intertwined with more vigorous expressions of corporate speech, particularly by Mobil. Such advocacy-speech efforts were in turn accompanied by other efforts to advance corporate interests, such as lobbying of elected officials — a particular emphasis of the Roundtable. The effort to reassert the corporate voice in the seventies was a multi-faceted effort. To argue that the advocacy messages analyzed here were by themselves responsible for corporate gains would not be realistic, given the multiple factors involved. As business scholar S. Prakash Sethi has observed, "Public images are formed not only by the type of awareness created through corporate advertising. . . . A corporation's messages constitute a very small input in an individual's cognition of his relevant world."[61]

Yet, a great many sources have declared the Mobil editorial-advocacy campaign in particular one of the most significant and innovative corporate public-relations efforts of its time. Examining the prominent discourse involved in such efforts to reassert the corporate voice in the marketplace of ideas provides a worthwhile topic for closer examination, particularly when it involves significant elements that did not exist before the 1970s — such as Mobil's editorial-advocacy effort and First Amendment protection for corporate speech.

THE DEVELOPMENT OF CORPORATE-SPEECH RIGHTS

The beginnings of the wave of historic litigation that established the body of current corporate-speech case law occurred in 1970s. A powerful impetus in making corporate political activity a free-speech issue during that time was the series of campaign-finance reforms instituted by Congress in the early seventies. Corporations have been prohibited from direct financial involvement in federal elections since the 1907 enactment of the Tillman Act,[62] which was replaced by the stronger Federal Corrupt Practices Act in 1925.[63] The legislation was intended to protect the political process from the reality or appearance of undue influence by economic interests and to protect corporate shareholders from having their investments used for political purposes that they might not support.[64] The general concern over corporate power around the turn of the century had been catalyzed into major reform efforts by such revelations as wealthy financier Marcus A. Hanna having raised huge contributions from corporations, including $250,000 from Standard Oil (the equivalent of some $5 million today), for William McKinley in his defeat of populist William Jennings Bryan in the presidential campaign of 1896.[65]

Campaign finance in general remained "a shadowy area" of law[66] until momentum for new reform gathered sharply in the early seventies, first through spiraling media costs greatly increasing demand for campaign funds and then later in response to the revelations of the Watergate scandals. The Federal Campaign Act (FECA) of 1971 replaced the Corrupt Practices Act and sought to reduce campaign expenses through a detailed series of limitations on candidates' media expenditures and disclosure requirements on contributions to candidates and political committees.[67] The most comprehensive campaign-finance law in U.S. history to that point, however, was enacted after revelations of numerous illegal contributions made by wealthy individuals and corporations to Richard Nixon's 1972 presidential campaign.[68] Congress's response was a series of amendments to FECA in 1974, which became law the next year and tightened the reporting rules on disclosure requirements, placed limits on contributions to candidates and independent expenditures on behalf of candidates, and established the Federal Election Commission as a watchdog of campaign fund-raising.[69]

The legislation was quickly challenged on First Amendment grounds that the government did not have the right to dictate how much citizens could spend to make their voices heard.[70] That argument was at the heart of *Buckley v. Valeo*, the landmark case in which the Supreme Court concluded that money is tantamount to speech in the modern era of expensive mass media "because virtually every means of communicating ideas in today's mass society requires the expenditure of money."[71] The Court upheld limits on contributions to candidates but struck down limits on expenditures in support of candidates. The Court reasoned that direct contributions represent a potentially corrupting influence on democratic processes but concluded that independent expenditures did not. The decision didn't directly address First Amendment questions on the use of corporate funds in election campaigns, but it did signal a shift in jurisprudence regarding the corporation. *Buckley* altered the relationship between spending and speech and made it constitutional for contributors to corporate segregated funds (political action committees) to participate in election campaigns on a collective as well as individual basis. *Buckley* is not considered a corporate-speech case per se, but it set the stage for the series of cases to come by establishing that "political spending and political speech are inextricably interrelated and that the former cannot be restricted without adversely affecting the latter."[72]

The first of the corporate-speech cases was *First National Bank of Boston v. Bellotti*, in which the state of Massachusetts argued that the wealth and power of corporations might drown out other points of view in political debate. The Court's majority opinion rejected that argument, holding that the value of speech in terms of its potential to inform the public did not depend upon the identity of the source and that speech otherwise protected by the First Amendment did not lose its protection because the source is a corporation.[73] The majority and minority on the Court split sharply in the 5-4 decision, with the majority emphasizing the listener's First Amendment right to receive even corporate political messages on the theory that it contributes to democratic decisionmaking. Thus, the Court restricted government from limiting corporate speech in the marketplace's range of information and ideas to which the public is exposed.[74]

The Court has maintained this restriction on government in most areas of corporate speech. In *Central Hudson Gas & Electric Corp. v. Public Service Commission* in 1980, the question involved the right of government to regulate corporate speech relating to the 1970s energy crisis.[75] Although the case is often discussed today in terms of the balancing test it established for the protection of commercial speech (advertising of goods and services),[76] Justice John Paul Stevens in his concurring opinion characterized the regulation in question as suppressing corporate *political* speech more than commercial speech because the banned speech could address questions under debate by political leaders.[77] The Supreme Court ruled 8-1 that even though the regulation advanced the government's substantial interest in conserving energy, it was more extensive than necessary to further that interest.[78] Another New York utility corporation successfully asserted First Amendment interests in *Consolidated Edison Co. of New York v. Public Service Commission of New York*.[79] The Court based its decision in part on the *Bellotti* holding that "the inherent worth of the speech in terms of its capacity for informing the public does not depend upon the identity of its source, whether corporation, association, union, or individual."[80]

Although this historical study focuses on the landmark corporate-speech cases that developed in the decade of the 1970s, it should be noted that the Supreme Court further refined this area of jurisprudence in decisions that were handed down over the course of the following decade. The cases included *Federal Election Commission v. National Right to Work Committee*,[81] *Pacific Gas & Electric Co. v. Public Utilities Commission*,[82] *Federal Election Commission v. Massachusetts Citizens for Life*,[83] and *Austin v. Michigan State Chamber of Commerce*.[84] More recently, the Court's lengthy ruling on the Bipartisan Campaign Reform Act in 2003 also included holdings that accepted some regulations on corporate speech.[85] On balance though, the decisions since the seventies have clarified the degree to which the Court considers corporate First Amendment rights to be only somewhat less than those of individuals and outlined the limited circumstances under which government may be able to establish that a regulation of corporate speech addresses real or apparent corruption of democratic processes. The Court has maintained a strong aversion to any content regulation of corporate speech, however, and has never reversed any of the earlier corporate-speech rulings.

The implications of those late-twentieth-century developments in jurisprudence related to constitutional protection for corporate speech have been the subject of considerable scholarly debate. The conflict has been summarized by Rome and Roberts as one between (1) the belief that corporate expression differs from individual expression to such an extent that it should receive lesser or no First Amendment protection, and (2) the belief that "protection of every species of expression . . . not only is protection of the right of the speaker but . . . is at least in part, for the benefit of listeners or recipients."[86]

Many taking the former of those positions have condemned the idea of providing constitutional protection for corporate speech. Greenwood dismissed corporate speech as antithetical to the basic principles of democracy and deserving of no constitutional protection.[87] In *Bellotti*, Deetz asserted, "the corporation is given rights like those of an individual," but the individual is not given the corporation's power of expression, so corporate influence is maintained through "a colonization of public decision making."[88] Such influence works to "alter the structure of society . . . [through] the governmental role [corporations] have assumed . . . for many purposes," Kuhn and Berg said.[89]

In this view, as Friedman and May have expressed it, "political speech is the forum in which we work out, each of us for herself, what political choices we will make. If it weren't for our ultimate political sovereignty, then our political speech would not have the constitutional importance which it now has. . . . Corporations are not, as such, sovereign members of our civil society. They exist at the sufferance of law and judicial ruling."[90] Corporate speech should be regulated, according to a proposal by Gowri, through a system whereby corporations would disclose all political spending and offer rebates to shareholders who did not approve of the causes supported: "If corporate speech could be brought into closer alignment with shareholder views, then the voice speaking to hearers in the marketplace would be closer to a human voice; and the loud competing views confronting other speakers would be closer to human views."[91] Such proposals would address what assessments such as Weissman's assert as the norm now for corporations to engage in massive campaign spending on all initiatives and referenda that may affect corporate interests.[92] Research has shown correlations of corporate spending influencing the outcomes of elections, although the outcomes may be affected by other variables.[93]

On the other side of the debate over corporate influence on society and culture, proponents have maintained it is healthier to free the corporate voice than to stifle it. Foreshadowing *Bellotti*, Epstein predicted a decade before the Supreme Court decision that "the expanding importance of governmental involvement in the operations of the economy . . . has resulted in the necessity of increased corporate political involvement." Corporations "should be placed on a legal parity with other social interests," he argued, because the corporation "contributes to the maintenance of pluralistic democracy in America rather than endangers it."[94] Corporations have been characterized as serving a vital political function in a democratic society, that of upholding the property and contractual rights of their stockholders through lawful expansion of profits.[95] In this school of thought, constitutional protection for corporate political speech actually fulfills First Amendment values. Redish and Wasserman, for example, argued that "the corporate form performs an important democratic function in facilitating the personal self-realization of the individuals who have made the voluntary choice to make use of it" and that corporate speech represents a potential check on government excesses.[96]

Some scholars have asserted that other forces are more effective than government at promoting responsible corporate speech. There is "a large social interest in hearing what corporations have to say about public issues," Redish and Wasserman argued; and "no one is forced to believe what the corporations claim," Sunstein contended.[97] Indeed, Butler and Ribstein maintained that "corporate power may, in fact, better represent voter support than the groups that would gain from a reallocation of power" because "corporate speech must conform at least generally with the views of a cross-section of the community" or risk alienating shareholders, consumers, employees, and other publics critical to the success of the organization.[98] Most recently, several scholars[99] have argued corporate-speech rights should more broadly encompass the sort of commercial speech involved in a 2002 California Supreme Court decision[100] that was challenged by many corporate interests, but which the U.S. Supreme Court ultimately declined to review.[101]

Thus, the significance of developments in jurisprudence related to constitutional protection for corporate speech is reflected by the substantial scholarly debate on the subject and the sharp differences over whether such speech undermines or advances democratic processes. The concern demonstrated by this ongoing debate provides a compelling indication of the historical significance of efforts by big business to reassert its voice in the marketplace of ideas in the 1970s.

MOBIL TARGETS THE MARKETPLACE OF IDEAS

The successful public-interest reform efforts of the sixties and early seventies were a key factor in Mobil's decision to create its editorial-advocacy campaign in response. Rawleigh Warner, Mobil Chairman and CEO when the editorial-advocacy program was begun, strongly supported it and publicly articulated the corporation's views that led to and shaped the program. Warner argued that although many interest groups had achieved a high level of political influence by 1970, "private business, one of the major institutions in the country and the source of wealth that supported most of the other groups, had no really effective voice in matters of public policy." Warner said that had brought about what he called "the beginning of a realization in our country that the pendulum has swung too far in the irrational bias against business," leading more corporate executives to conclude that they should more actively "engage in the give-and-take of ideas and viewpoints, on Capitol Hill and elsewhere."[102]

That dovetails with Sethi's 1977 finding that corporate-advocacy advertising — corporations using media messages to advocate public positions on political and social issues — increased significantly in the 1970s. The primary rationale for that increase was the corporate premise that they were being "squeezed out of the public communication space by more vocal activists, that their viewpoint was not getting fair exposure." Those advocacy efforts used advertising as public-relations tools, disseminating corporate messages designed to influence public opinion rather than sell products or services. (Advocacy advertising is also often called issue advertising and sometimes corporate advertising, although the latter tends to refer to a broader sort of corporate communications that may not necessarily involve advocating a position on political and social issues.) "Business is a social institution and therefore must depend on a society's acceptance," Sethi said. "At any given time, there is likely to be a gap between performance and societal expectations. . . . A continuously widening gap would cause business to lose its legitimacy and threaten its survival."[103]

When Mobil started its editorial-advocacy campaign, it was a company that had begun business more than a century before and had become one of the ten largest industrial firms in the world with total assets and annual revenues of more than $5 billion. It began in 1866 as Vacuum Oil Company, which focused primarily on manufacture of a successful line of petroleum-based lubricants for steam engines and other machines of the Industrial Revolution. It was founded four years before Standard Oil, which in 1879 bought controlling interest of the company.[104] When Rockefeller's gargantuan Standard Oil Trust was broken up by the 1911 Supreme Court decision, the companies called Standard Oil of New York and Vacuum Oil were divested. Standard Oil of New York, also called Socony, had built its early success on shrewd retail marketing. It sold and gave away millions of small kerosene lamps in China, India, and Japan in the 1890s, developing international markets for kerosene, one of the first industrial products to reach large numbers of Asian consumers. At the time of the Standard Oil Trust breakup, Socony was the third-largest oil company. In 1932, Socony and Vacuum began operating as one firm, which grew through the purchase of other companies and eventually would be called Mobil, after the name of one of the firm's successful gasolines.[105]

Mobil remained one of the half-dozen major oil companies throughout the remainder of its existence. It merged with Exxon in a transaction that was completed in 1999 and made Exxon-Mobil the world's largest oil company. That merger reunited two of the major pieces of Rockefeller's Standard Oil Trust — Exxon having been created from Standard Oil of New Jersey in the early-twentieth-century breakup of Rockefeller's holding company. Before that merger, the most crucial chapter in shaping Mobil's operation during the second half of the twentieth century began with a major internal reorganization that was started in the late 1950s. Mobil's Manhattan roots had made it a company run not by engineers or swaggering Texas oilmen but "financiers and lawyers who prized sociability."[106] The firm's old guard was characterized as "blue-blood conservative and socially elite," with a long-held policy of hiring and promoting their own, filling Mobil's ranks "with men whose conservatism substituted for ability." The lack of progressive thinking eventually led to a mid 1950s business crisis that forced the reorganization and layoffs of some 12,000 employees.[107]

Outside management consultants were brought in to help shape the reorganization of a company that, a half century after the Standard breakup, was still operating more as the holding company of separate businesses that it had been for Standard than as a worldwide, integrated oil company. After the reorganization, Mobil would be dominated by executives who demanded for it a new identity as a scrappy, aggressive, intelligent corporation. Warner was the driving force in that effort, using public relations and advertising to emphasize his firm's new identity and to establish a higher-profile public image than any of the other major oil companies. Mobil focused on "advertising itself" more than on promoting its products.[108]

In the 1970s, Mobil's becoming "one of the most outspoken of all the oil companies"[109] was due in no small part to the rise of Herbert Schmertz to vice president for public affairs at Mobil in 1969 and election to the board of directors in 1976. In Schmertz, Mobil found an aggressive, articulate practitioner of public relations who saw no "fundamental difference between individuals and institutions" and vigorously practiced public relations as a management function.[110] Schmertz was so devoted to Mobil that he was said to respond to any criticism of the company "as violently as if someone had lynched his dog."[111] He relentlessly argued the case for corporate First Amendment rights and became the architect of the Mobil editorial-advocacy campaign. He wrote that corporations traditionally could make their views heard in the marketplace of ideas through speeches and public debates, interviews, meetings, and letters to the editor. However, he declared, "We at Mobil have specialized in a fourth way — issue advertising."[112]

CEO Warner also was involved significantly in the origins of Mobil's editorial-advocacy campaign. Anticipating the oil shortages and sharp price increases that characterized the energy crisis of the 1970s, he said, Mobil concluded that "if we in private business were to retain our franchises, we had better recognize that the situation placed a special obligation on us to share our particular knowledge with the public to help it understand some of these complex issues [relating to U.S. energy policy]." Mobil determined *The New York Times* op-ed page (the second editorial page, opposite the main editorial page) to be "particularly attractive" as a venue for the messages the oil corporation decided to disseminate because it represented a page "to which our target audience turns early in its reading of that newspaper." Mobil decided the "material had to take the form of essays, urbane in nature and at least as literate and readable as the other material in that part of the paper" and to commit to a long-term advocacy campaign, because "it might take two or three years to . . . build the necessary rapport with the people" targeted by the messages. The Mobil editorials were on some occasions published in other major newspapers, but most regularly appeared in the *Times*. Over time, the range of subjects broadened beyond energy issues to include environmental issues, free-speech issues, governmental efficiency, the role of profits in American society, support for various causes such as the New York Public Library and public broadcasting, the need for economic growth, and other topics.[113]

Schmertz said the op-ed spots constituted "the platform on which we [ran]. Each week, in effect, we add[ed] another plank or reinforce[d] a previous one." He recalled the 1960s as a time when the emergence of "a powerful environmental lobby" and other public-interest groups had big business "under fire as never before" and suffering a loss of public confidence. Although "most other corporations were silent," in Schmertz's view, "this ostrichlike response just wasn't our style." When the *Times* began offering a quarter of the page opposite its editorial page to advertisers who wanted to publish opinions and commentaries, it represented for Mobil "an ideal chance to speak our mind to opinion makers . . . to show the intellectual basis for our arguments, so that the reader would be aware of the various assumptions we hold and the philosophy that influences our views." In Mobil's view, it was "practicing the ancient and honorable art of pamphleteering — only instead of distributing our tracts from door to door, we found it more economical to pay the *Times* to serve as our delivery system."[114]

Although Mobil's *Times* op-ed spots were published in advertising spots, they were part of the oil company's public-relations efforts. The ads were designed to influence public opinion rather than sell products. Most of the advocacy messages that Mobil published in the *Times* were drafted by speech writers in Mobil's public-relations department, with ideas for the editorials drawn from various sources in the corporation. The development process involved several drafts with review by many departments at Mobil, depending on the subject. Each op-ed spot was personally reviewed by Warner or by the company president. "Believe me," Warner said in 1979, "these ads are no good to us unless they reflect the views of the management of the company."[115]

Warner argued that under the First Amendment, corporations such as Mobil had "a clear-cut right to add our voice to those already being heard in the marketplace of ideas and democratic debate. If democracy is to survive in our country, the people must be well informed. . . . The vitality of free institutions depends on public understanding and support, and these in turn depend on an abundance of accurate information and access to conflicting viewpoints." He maintained that in *Bellotti*, the Supreme Court "unequivocally confirmed corporate freedom to speak," and thus, "clearly having the *right* to engage in advocacy advertising, we believe we also have *obligations* to do so [emphasis included]." Warner characterized Mobil's advocacy efforts as part of maintaining relations between the company and the general public, but also with key publics, such as employees and shareholders. The latter in particular, he said "expect more from corporate management today than just the ability to assess business opportunities and make sound operating decisions. We think they are beginning to look at a company's ability to anticipate political, social, and economic issues and to deal with those issues." Warner said that such public-relations efforts were vital because shareholders and potential shareholders evaluated each corporation according to how it "comprehends its environment and communicates with, and has impact on, the various publics that affect its destiny."[116]

ASSESSING MOBIL'S EDITORIAL-ADVOCACY CAMPAIGN

The prominence of Mobil's editorial-advocacy campaign has been frequently discussed by scholars and other commentators. Heath, who has written extensively on corporate-advocacy efforts, described Mobil in 1997 as "the most visible — and feistiest — corporate practitioner of advocacy communication" for the past quarter century.[117] The corporation became so identified with its messages on the *Times* op-ed page that its position on that page "is now commonly known as the 'Mobil space,' " according to Gregory.[118] Sherrill concluded that quantifying the impact of advocacy campaigns is difficult but that "Mobil, a dog walking on its hind legs and carrying a sign, has come to be known as the 'intellectual' one [among oil companies], and that's what it wanted."[119] The campaign was part of a shift in the corporation's strategy, Christensen and Cheney asserted, in which Mobil "became more concerned with managing its general image and speaking about socio-political issues than with discussing its products and services."[120]

Research has drawn varying conclusions regarding the significance of the Mobil effort. For Simons, Mobil's campaign relentlessly repeated the same theme of allowing the free-enterprise system to work for the betterment of all.[121] Mobil employed moral appeal to represent its own positions as positive and the opposing positions as negative in order "to portray itself as a champion of the public interest,"[122] in the view of Smith and Heath. Heath has elaborated that "Mobil adopted a persona to differentiate itself from other companies that will not boldly take stances on vital issues,"[123] and with Nelson has characterized Mobil's priorities as criticizing bias among news media, protecting the free-enterprise system, and blaming government for a substantial range of problems faced by the nation.[124] Other research has called the Mobil advocacy campaign an ethical form of American democratic discourse that emphasized freedom of expression and energy independence.[125] Mobil's advocacy advertising also has been assessed as seeking to establish justification not only for its corporate activities, but for all of the American socio-economic system.[126] Davis utilized an "advocacy advertising effectiveness matrix" that considered criteria such as believability, reader interest, consistency, and advertiser identification to analyze Mobil advocacy messages in the mid-seventies. That study ranked the op-ed messages defending industry productivity and profits as strongest, with those opposing efforts to break up oil companies as weakest.[127]

In Mobil's view of the effectiveness of the editorial-advocacy campaign, as expressed by Schmertz, "When you're selling ideas, the results are especially hard to quantify. But it's clear that through our op-ed ads, we've managed to bring some of our views into the public consciousness. We have won a certain degree of credibility with various key publics." Schmertz asserted that the editorial-advocacy campaign was particularly vital to Mobil in the mid-seventies when it did no product advertising because of the energy crisis. Further, Mobil shareholders surveyed by the company reported that the second-most important reason for buying Mobil stock was a "belief that Mobil will be active in protecting their investment from hostile government intervention and legislation."[128] Mobil CEO Warner was named Adman of the Year by *Advertising Age* magazine in 1975 — mainly for Mobil's "shoot-from-the-hip, gutsy 'idea' advertising." On that occasion, he observed, "There's no way we can measure what we've accomplished. . . . But I do know that if we hadn't done it, we would have left all the media to our critics. And I have to assume we'd be worse off today."[129]

At the end of the seventies, *Ad Forum* reported that an increasing number of corporations had "joined the fray," with 21 percent reporting they were discussing public issues in their advertising — up from 11.7 percent just two years earlier. Corporate spending on advocacy advertising climbed from $154 million in 1970 to more than $500 million in 1979.[130] Surveys showed that seventies advocacy campaigns originated in public-relations departments — as Mobil's did — twice as often as in advertising departments or agencies.[131] Mobil was recognized as "the clear-cut leader" in corporate advocacy messages "from the beginning," according to John E. O'Toole, president of the Foote, Cone, and Belding agency.[132] (Mobil used the Doyle Dane Bernbach agency in the 1970s, but produced its op-ed messages in-house.) *Fortune* magazine called Mobil "the champ of advocacy advertising."[133] *Ad Forum* called Mobil "the leading practitioner of 'issue' or 'advocacy' advertising" throughout the seventies.[134] The company's advocacy efforts had built a crucial audience for its messages. A 1978 Yankelovich, Skelley, and White survey found that 90 percent of Administration, congressional, and other government officials read the Mobil op-ed ads.[135] "No other major advertising campaign generated as much controversy or major media coverage," said *Marketing and Media Decisions* magazine of the first decade of the oil company's editorial-advocacy campaign.[136]

Undeniably, the editorial-advocacy campaign contributed to promoting the bolder identity through which Mobil had sought to reject the "good, gray company" image that Chairman Warner recalled inheriting when he took over the company in the 1960s.[137] Looking back on Mobil's op-ed ads of the seventies, Schmertz said what Mobil was after could not be tracked by response surveys. Mobil, he said, wanted "an intellectual level of debate on issues that affect the environment in which U.S. companies do business — price, controls, allocation of gasoline, nuclear development. Years ago we were talking in the wilderness. Today these are mainstream issues."[138]

In another of Mobil's assessments of its editorial-advocacy campaign in the 1970s, the company said the *Times*' op-ed advertising space played a key role in bringing the corporate voice more prominently to the marketplace of ideas. Describing itself "as one company that leaped up on [the *Times*] soapbox at the very beginning," a 1980 Mobil op-ed spot said that when the company began its advocacy campaign in the newspaper, the proposition that "corporations had ideas as well as products" was not widely accepted. "[Today] few seem any longer surprised that corporations have ideas and the right to express them. The response to these messages — calls and letters, and even rumbles from the White House — has taught us that what we have is a running conversation with the public."[139]

THE GREATER MEANING OF CORPORATE NARRATIVES

Expanding the role of powerful corporate voices in the marketplace of ideas raises many concerns and questions for society. When a corporation such as Mobil engages so extensively and prominently in the sort of discourse once considered the domain of human individuals, what exactly does it try to say? What, that is, does the corporation say beyond simply the positions that it takes? Generally those can predictably be expected to consist of whatever advances the corporation's self-interest. A corporation could anticipate little if any success by merely disseminating its positions and expecting public opinion to embrace them. Rather, what is important to consider closely about such a body of corporate speech is *how* such positions may have been presented in the effort to generate support for them.

Framing theory holds that the ways in which ideas and issues are framed become powerful factors in media discourse. The construction of symbolic meaning that contributes to promotion of themes vital to communicators is a particularly important element of the framing process. The degree of effectiveness with which framing is employed offers insights into why the content of discourse may hold meaning for audiences. When a corporation such as Mobil injects so much discourse into the marketplace of ideas, do the messages as a whole assert any larger vision for society beyond the corporation's commercial interests? And how do the core ideas promoted in the narratives represented by such corporate discourse relate to the major ideas debated in the corporate-speech cases of the seventies — in which the competing parties sought to define the parameters of free speech in relation to the corporation.

Societies negotiate the greater meaning of events in many ways, and the media and legal discourse focused upon in this study offers powerful evidence for considering the manner in which corporate political activity was redefined significantly over the course of the seventies. Framing theory asserts that successful framing can be the most powerful feature of discourse and in fact as powerful as language itself. The growing body of literature on framing-analysis indicates that it offers a consistent means for revealing the degree of communicative power that a body of discourse may or may not possess.[140]

Framing analysis was employed as a means of structuring this historical study. Rather than leaving historiographical issues of selection and emphasis solely up to the random discretion of the researcher, or seeking to remove the researcher from the research instrument as in quantitative analysis, this study drew upon qualitative framing analysis to fashion a middle approach. Framing analysis provided methodological discipline that guided the critical evaluation of relevant primary sources in this historical research. Those sources were evaluated in terms of the way they utilized language elements in a manner that contributed to recurring themes and dominant frames. The analysis focused on content, rather than effects.

Through an analytic process not applied to this material before by scholars, this study developed qualitative arguments asserting the critical nature of communicative power generated by bodies of discourse already established as historically significant in their impact.[141] The research was designed to identify patterns in message construction rather than causality. Specifically, this analysis employed Altheide's "document analysis" process to connect the documents that are the focus of the study to broader ideas in discourse and ideology. Altheide's method seeks to "place symbolic meaning in context" and "track the process of its creation and influence on social definition" in order to "capture the meanings, emphasis, and themes of messages and to understand the organization and process of how they are presented."[142]

The concept of framing[143] has been increasingly employed in recent years in media analysis, particularly in studies of the ways that media producers construct representations of reality.[144] Although this study focuses on media content rather than effects, framing has been theorized and demonstrated as a potentially significant influence on public opinion.[145] In this research, the relationship between discourse and public opinion is conceptualized in terms of Gamson and Modigliani's "parallel systems" rather than causal linkage.[146] As Edward Bernays asserted in his pioneering public-relations concepts, public opinion is formed through an interactive process in which leaders and organizations are influenced by the publics whom they are at the same time seeking to influence.[147]

In a world dominated by mass media, a greater consciousness of framing's potential influence on the effectiveness of message construction can reveal communicative processes that may be at work in important mass-media messages without being widely apparent. One of the asserted strengths of framing analysis is its ability to highlight themes in discourse that may otherwise elude detection. Historically, this provides new insights into the way that messages such as the corporate-speech narratives of the seventies could have influenced the course of the past — and the way others may do so in the future.

CHAPTER TWO

1970-74
Beginnings of a Seismic Shift

It is a time in U.S. history that has been called the "goofy decade."[1] Perhaps there was no other way to bridge the period between the counterculture of the sixties and the money culture of the eighties than through a decade of great contradictions, social transition, and economic stresses. In the 1970s, a humbled America pulled out of a war without winning, and a disgraced president left the White House without finishing his term. The prices of gasoline and gold and home mortgages reached record highs. The decade saw the introduction into popular culture of hot pants and leisure suits, the personal computer and the floppy disk, OPEC and the Ayatollah Khomeini, *Rocky* and *Star Wars*, the word "workaholic" and no-fault divorce laws, *Deep Throat* and Deep Throat, *Roe v. Wade* and the first test-tube baby, Nike running shoes and streaking, Archie Bunker and girls in Little League.

Yet as the decade drifted through that social and cultural melange, a historic change of course was taking place in the nation's political disposition. The seismic shift has been characterized as the rejection of nearly half a century's majority support for "national economic planning, full employment, and the expansion of state capacities to regulate business" in favor of "greater reliance on market allocation of resources, a reduction of taxes and nondefense government expenditures, and a rollback of recently-enacted regulations affecting industry."[2] In 1970, Americans celebrated the first Earth Day, promoting awareness of environmentalism. In 1980, Growth Day called for the nation "to pause and to reflect on the need for growth, particularly economic growth."[3] In 1972, Democrats nominated for president "the most avowedly leftist candidate that party had chosen in the twentieth century" in George McGovern. In 1980, Republicans nominated Ronald Reagan, "their most emphatically conservative nominee in this century."[4] Those nominations may not be perfect symbols of the nation's political swing over the course of the decade, given that while Reagan won in a landslide, McGovern lost in the same fashion. Nevertheless, support for the political schools of thought that each of them represented clearly seemed to head in opposite directions as the seventies proceeded. Reagan, who had failed even to gain the nomination of his party, in 1968 and 1976, would win the presidency twice in the eighties. McGovern was never a national political figure of influence again after his 1972 campaign. At least in part, government was the answer that McGovern had offered to Americans as the solution to their problems, while Reagan insisted that government *was* the problem.

Why the nation's majority ultimately swung its support behind the latter approach — after generally embracing bigger government since the early 1930s — is a subject of much historical interpretation. That the problems of the seventies were staggering, however, is beyond any debate. The decade has been described as a time in American history when "the combined effect of the oil crisis and such factors as declining productivity and rising inflation was like a sudden crashing of the gears into reverse. Effortless progress came to a shuddering halt. Confidence in the mighty economic machine that could bulldoze its way through social problems was shattered."[5] A worried nation struggled to deal with the worst recession since the Great Depression, unprecedented energy shortages and price increases, double-digit inflation, crumbling industries, failure in Vietnam, and the corruption of Watergate. *Fortune* magazine declared the nation moved into a "siege economy" in the early seventies.[6] Political debate centered on what should be done to resolve the tangle of dilemmas that dragged on through the greater part of the decade. The voice of big business also weighed in on the debate, a phenomenon that was not in and of itself a new one in American political discourse of the twentieth century. In the seventies, however, many ways in which that voice was expressed were indeed new.

Most innovative in that respect were Mobil's historic and controversial efforts to influence the marketplace of ideas through media discourse focused upon *The New York Times*. Mobil's groundbreaking editorial-advocacy campaign began when the *Times* for the first time made part of its op-ed page available for such advocacy ads in 1970, and it continued there throughout the decade. Investigative reporter Robert Sherrill called the *Times* "a kind of godfather" to the Mobil op-ed campaign.[7] This study's emphasis on the *Times* is by no means intended to suggest that political discourse from its pages reflects the breadth and diversity of all media discourse. Yet that newspaper does represent the media venue or public sphere in which Mobil most actively chose to disseminate messages it hoped would influence the marketplace of the ideas.

The politics of big business were profoundly enmeshed in major issues of the 1970s. Circumstances would make Mobil, the Business Roundtable, and other corporate interests prominent stories as the decade unfolded. Economic issues are important in virtually any period, of course, but the seventies saw some of the greatest economic upheaval in American history. Record inflation and high unemployment created considerable financial pain for countless Americans and critically shaped the course of the nation's politics during those years. Crucial to the economic developments were unprecedented energy shortages and price increases that made U.S. oil companies the subject of increased media attention and political debate. As leaders scrambled for some solution to the economic strains, the newly created Business Roundtable rose from obscurity to become by some accounts the most powerful voice of big business in Washington political circles — partly because it spoke in a unified way for the immense financial interests of most of the nation's major corporations. In 1978, the assets of its member corporations were estimated at $1.26 trillion, with their gross revenues equal to half that of the entire United States and larger than any other nation on earth.[8] Mobil also represented a source of soaring economic might in the seventies, as its annual earnings quadrupled over the course of the decade to reach more than $2 billion,[9] and staggering oil-industry profits in the face of widespread consumer pain became a major political issue.

BIG BUSINESS AND THE POLITICS OF THE SEVENTIES

As the seventies began, concern already was growing that the overall good times enjoyed by the U.S. economy during the previous decade — "unparalleled prosperity," the *Times* called it — would not continue. In the first of its annual National Economic Review sections of the decade, the *Times* foresaw "a legacy of complex problems and frustrations" following a final year of the 1960s that was "not one to inspire confidence."[10] During the previous ten years, the number of Americans living in poverty had been cut by more than fourteen million, while the population grew by almost twice that number. Gross National Product was nearing the trillion-dollar mark for the first time in American history. Yet the Dow-Jones industrial stock index had plunged 15 percent in 1969.[11] Inflation had begun whittling away at income, in effect negating the actual buying power of the $22-a-week gain that factory workers made between 1965 and 1969.[12] Interest rates were climbing, with hikes in 1969 pushing the prime rate to 8.5 percent, double where it stood at the end of 1967.[13] Business publications echoed the *Times*' pessimistic forecast, describing the outlook for 1970 as a "bleak" one with "very little real growth."[14]

Business leaders expressed general confidence after President Nixon's first year in office that his policies would be pro-business in the seventies.[15] Environmental and consumer concerns, however, were becoming an ever more prominent factor of business life. A series of major power, mining, paper, and chemical plants had been canceled or altered over environmental issues in 1969, and a huge spill at an off-shore oil well near picturesque Santa Barbara, California, had dramatized the impact that pollution could have. Ford Chairman Henry Ford II called environmental issues the biggest problem facing the auto industry, and Monsanto President Edward Bock said, "If efforts to correct social problems fail, long-range corporate progress will be limited."[16] Consumers were demanding and getting such concessions from corporations as safety features, toll-free complaint lines, and more generous warranties,[17] while even business-school students were joining the clamor on college campuses for greater social consciousness from big business.[18] "Not since the trust-busting days of Theodore Roosevelt has the force of public opinion intruded so emphatically on the business community's patterns of operation," said the *Times*.[19]

Midway through 1970, the *Times* announced that it was overhauling the structure of the forum conducted on its editorial page. The biggest change would take place on the page following — or opposite — the editorial page, where the newspaper had traditionally published obituaries. The news of the dead would be moved elsewhere, Publisher Arthur Ochs Sulzberger announced in July, and replaced with a new op-ed page "designed to afford a greater opportunity than has heretofore existed" in the newspaper for commentary "on subjects covering the whole range of human affairs, but with specific attention to current political and social issues." The five regular columnists of the *Times* — James B. Reston, C.L. Sulzberger, Tom Wicker, Russell

Baker, and Anthony Lewis — would be moved to the new op-ed page, but space would be allotted for at least two opinion pieces daily that were submitted by outside writers.[20] Additionally, the lower, right-hand quarter of the page would be made available to advertisers who wanted to publish opinions and commentaries. In a full-page ad of its own the week that the new page began, the *Times* announced: "There are more issues, more voices, more opinions. We believe they should be heard."[21] A *Times* editorial published on the day the op-ed page debuted on September 21, 1970, said the purpose in adding it to the newspaper was "to afford greater opportunity for exploration of issues and presentation of new insights and new ideas by writers and thinkers who have no institutional connection with The Times and whose views will frequently be completely divergent from our own."[22]

There would be no shortage of takers for the opportunity to express themselves in that manner in the *Times*. Even in the very earliest weeks of the new op-ed page, it was already flourishing with a diverse sequence of contributors, including former presidential advisor Walt Rostow on U.S. policy in Asia, Notre Dame President Theodore Hesburgh on finding peace in the Middle East, Kenyan writer Hilary Ng'weno on African opinion of the Black Panthers, evangelist Billy Graham on the Second Coming, author Gore Vidal on legalizing marijuana, Chinese novelist Han Suyin on the Cultural Revolution, former Yankees pitcher Jim Bouton on the World Series, antiwar activist Rennie Davis on rejecting Nixon's Vietnam peace plan, and Northern Ireland Catholic revolutionary Bernadette Devlin on creating a socialist republic in her nation. In the lower, right-hand corner of the page, a variety of advertisers also immediately began utilizing the op-ed space that was made available for them, including U.S. Steel, the Santa Fe railroad, McDonnell-Douglass, Eastern Airlines, and Mobil.

Increasingly as the decade proceeded, some oil companies used the op-ed advertising spot to present their positions on the issue that ultimately dominated news more than any other in the seventies — the energy crisis. Many factors were involved in the crisis that developed in various stages over the course of the decade. Chief among the factors were demand for oil and natural gas exceeding production in the United States, the Organization of Petroleum Exporting Countries developing enough strength to enforce steep price increases, and an embargo of oil to the United States by Arab nations that began with the breakout of their 1973 Yom Kippur War with Israel. In the seventies, more Americans were driving more automobiles than ever before. Over the fifteen years preceding 1973, the number of cars on the road in the United States had increased 300 percent to 130 million. The nation had built its interstate highway system; suburbs had mushroomed and spawned more motorists commuting greater distances; most cities had eliminated their trolley systems; and families increasingly were acquiring two and three cars each.[23]

While the number of vehicles had climbed sharply in the years immediately preceding the seventies, so had the nation's dependence on imported oil. As recently as the 1950s, the State of Texas alone was pumping more oil than all the Middle Eastern countries combined. By the 1970s, however, the members of OPEC — Saudi Arabia, Iraq, Iran, Kuwait, Libya, Qatar, United Arab Emirates, Algeria, Gabon, Nigeria, Venezuela, Ecuador, and Indonesia — controlled more than 80 percent of the world's known reserves of oil.[24] OPEC had been founded in 1960 as a nationalist response to "economic colonialism" that denied the founding countries control over the pricing of their petroleum resources.[25] The oil cartel began growing more cohesive and militant in its demands particularly after 1970, when the success of bold negotiations by Libya with oil companies demonstrated the economic leverage such nations could wield as Western nations grew increasingly dependent on OPEC members' oil.[26] "A new cartel gained experience and confidence by repeated success," wrote petroleum historian M.A. Adelman of OPEC's coming of age in the early seventies. "It felt free to threaten."[27] As the decade proceeded, OPEC not only was able to demand greater economic concessions from the oil companies doing business in its member nations, the organization grew strong enough to ignore pressure from the U.S. government to moderate price increases.[28]

Though the impact of the energy situation first hit most Americans in late 1973, among the forums in which it was being discussed before that was the *Times* op-ed advertising corner. In fact, Texaco used the spot ten days before Mobil first did in 1970 to declare that the oil industry was not to blame for the energy problems that it warned were shaping up for the United States. "We know the problems," Texaco said, "We are working to find the answers."[29] In assessing the economic impact of the coming energy problems, the *Times* business analysts were rather slow, however, with no discussion until 1974 in the keynote article of the newspaper's annual National Economic Survey of the role that problems with energy supplies and prices might play in the coming year's economy.[30] In that regard though, the *Times* would be no different than most print media of the period. Most did not devote attention to energy problems before that time. For example, between 1973 and 1974, the *Reader's Guide to Periodical Literature*'s entries under the heading "Petroleum" tripled. In the subcategory for articles published on "Petroleum Supply" alone, the number shot from two for 1973 to sixty-six for 1974.[31]

The oil industry, however, had been issuing pronouncements as early as 1971 by oil executives such as Mobil President William Tavoulareas that "the United States is becoming energy-short,"[32] and by Mobil Chairman Rawleigh Warner, Jr., at a 1972 stockholder meeting that energy problems could lead to "the worst peacetime energy shortage in the history of the United States."[33] That same month, Mobil said in an op-ed spot that "most Americans probably don't know about the gap between forecast energy supply and demand."[34] Toward the end of 1972, another Mobil op-ed spot declared: "The fact that the energy crisis hasn't come full-blown yet doesn't mean it has gone away. . . . The day of reckoning still impends."[35] It should not be assumed, however, that the oil companies were necessarily prescient in such warnings. One school of thought, perhaps best articulated in Robert Sherrill's 1983 history of the energy crisis, holds that the oil companies conspired to raise prices for their products in the seventies, including exaggerating the severity of energy shortages.[36]

In addition to appearing in the op-ed advertising positions, business voices also began to be expressed in the *Times*' op-ed columns. One contribution by General Motors Chief Executive Officer R.C. Gerstenberg, in retrospect, effectively offered a blueprint for the strategy that would be stressed by big business in the seventies in seeking to influence public opinion through the marketplace of ideas. It reflected a contention that was articulated repeatedly by corporate leaders as the decade began, including Mobil Chairman Warner, who said that at the beginning of the seventies, an "irrational bias against business" had developed in public opinion, leading many corporate executives to "be willing and able to engage in the give-and-take of ideas and viewpoints."[37] The public-interest movement had grown dramatically in the 1960s and succeeded in pushing legislation on cleaner air, safer automobiles, labeling of food, lending reform, and other forms of regulatory activity, according to *Consumer Reports* magazine. In the early '70s, business began responding forcefully. "Legislators have tended to be more receptive to the public interest than they might have been to business," said Forrest Rettgers, an executive of the National Association of Manufacturers. "We are attempting to balance the scales."[38] Evidence of public disapproval of business in the early seventies was reflected in polling on the subject. Yankelovich polls showed the number of Americans who agreed that business was striking a fair balance between profits and the public interest dropped from 70 percent in 1968 to 32 percent by 1972. Harris polls found that the number of Americans expressing confidence in the leaders of major companies dropped from 55 percent in 1966 to 27 percent by 1971.[39]

In his *Times* op-ed column, GM CEO Gerstenberg argued that the low estimation of business responsibility that Americans had expressed was due to citizens' lack of understanding of the free-enterprise system. Business must respond quickly to remedy that situation, he declared: "Recent experience teaches us that the importance of public opinion should never be underestimated, that legislation follows opinion, and uninformed opinion can lead to bad legislation and to unreasonable controls and restraints by government. We in the auto industry have seen a great deal of this in recent years. . . . The business community has a job to do. . . . Individually and collectively, we must speak out more than we have. We must reach new audiences outside of the business community."[40]

1973: ONSET OF A DEVASTATING ERA

The U.S. economy had recovered enough in 1971 and 1972 for the *Times* to declare the nation in "the midst of a new economic boom" in the business section's annual economic report at the beginning of 1973.[41] Inflation remained somewhat of a concern, but Nixon's wage-and-price controls that had been instituted in late 1971 appeared at that point relatively successful (though they would soon be abandoned). Submerged just beneath the surface of public attention were two developments that by the end of 1973 would devastate both the American economy and psyche: the series of Watergate revelations that ultimately led to Nixon's resignation in 1974 and the Arab-Israeli war of 1973 that cut off the flow of oil from Arab nations to the United States from October 1973 to March 1974.

The Arab-Israeli war began on the Jewish holy day of Yom Kippur, October 6, 1973, when the armies of Syria and Egypt invaded Israel. After the United States responded by supplying military aid to Israel, which early on was thought to be near losing the war, Saudi Arabia and most other Arab states declared an embargo on providing oil to the United States.[42] The economic blow to the United States was staggering, as the embargo shrunk the amount of oil reaching world oil markets and sent prices spiking upward. As the Arab states had hoped, the move provided a dramatic demonstration of their market power.[43] It failed, however, to end United States support for Israel, which also gained several hundred additional square miles of territory by the end of the conflict. The fighting stopped after nineteen days when a ceasefire was declared, and a United Nations peacekeeping force arrived. [44]The outcome of the war, the third between Arab nations and Israel since 1948, "signaled the end of Arab unity against Israel and ushered in the process of direct and separate peace between Israel and the neighbouring Arab countries," political scientist P.R. Kumaraswamy wrote.[45]

The price of a barrel of oil soared from $1.21 in 1970 to $12.12 by the end of 1974.[46] As nations struggled to deal with the skyrocketing costs, world financial leaders feared a collapse of international trade.[47] At that point, unemployment in the United States had reached 7.1 percent, inflation was raging at 12 percent, and real economic growth had fallen to a negative 5 percent.[48] Inflation sent the cost of a single-family home soaring 40 percent between 1972 and 1975.[49] For the first time since a series of Gallup polls began measuring such attitudes in 1959, a majority of Americans said their standard of living had fallen.[50] The Nixon Administration and Congress, both consumed by the Watergate scandal "unfolding continuously,"[51] struggled desperately for a solution to "not just a typical cyclical downturn in business that would respond to the traditional tools of economic stimulus, but a recession caused by a shortage of energy and of the materials produced by energy."[52]

In November of 1973, President Nixon first publicly referred to the energy problems as a "national crisis." Americans were told to drive less, turn down their thermostats, and save electricity — including turning off their Christmas lights. Year-round "daylight savings time" and lower speed limits were legislated.[53] Plans for rationing of gasoline were developed by the Nixon Administration and Congress.[54] Popular magazines ran details of standby rationing plans and even published photographs of ration coupons that would be used.[55] Many factories and schools closed for at least part of the winter in order to save on heating costs. The Coca-Cola Company turned off the lighting on its outdoor advertising across the country, and even the monuments in Washington were darkened at night.[56] By Christmas of 1973, energy shortages had gone from "something that most people merely talked about to something they were starting to experience."[57]

Increasing pressure from labor and consumer groups and even the White House built for a "windfall profits" tax that would prevent the oil companies from "reaping huge profits from other people's discomfort."[58] Oil profits were skyrocketing. As the world's dominant source of petroleum, the OPEC nations' higher prices had become the market benchmark. By the end of 1973, OPEC had established itself as the world's "oil price manager."[59] Whenever OPEC raised the price of oil, it rippled through the entire industry because so much of the world's oil was being purchased from OPEC nations. The price hikes worked to the benefit of oil companies, however. "The long, painful road that lay ahead for consumers was a road as golden for the [oil] companies as for OPEC," wrote Sherrill in his history of the energy crisis. "The more money OPEC got, the more money the oil companies got. When the former raised oil prices, the value of *all* went up — including the oil that the companies already had in inventory, . . . and would find everywhere in the world [emphasis included]."[60] The Arab embargo made for gasoline shortages and lines at the pumps in the United States, but the major oil companies were doing business all over the world. Additionally, even in the United States, some Arab oil still made it through despite the boycott. The nature of the world oil market, with tankers easily changing destinations after leaving port and with crude oil from various sources routinely commingled at refineries worldwide, meant it was impossible for a selective boycott such as the Arab nations had imposed on the United States to be totally successful.[61]

In 1973, Texaco's earnings climbed 70 percent, while Mobil reported its income rose 47 percent.[62] Exxon's earnings soared 59 percent that year.[63] Earnings for the majors[64] settled down into rates generally in the 20 percent range for 1974,[65] but the gains were still spectacular enough to sweepingly transform the Fortune 500. For the first time in forty years, General Motors was replaced as the largest industrial company based on total sales, with Exxon taking over the top spot. Texaco climbed from sixth to fourth, Mobil from seventh to fifth, and oil companies took over half of the top twenty spots in the rankings. While the oil companies prospered, sales among all non-oil companies in the Fortune 500 declined 4.7 percent in real terms (adjusted for inflation). The automakers faced such staggering challenges from the oil crunch and foreign imports in the seventies that Chrysler would survive only by successfully pleading for a taxpayer-funded bailout. In 1973 alone, General Motors, Ford, and Chrysler laid off more than 100,000 workers.[66]

Inflation, energy shortages, and the rise of global competition demonstrated the vulnerability of many American corporations in the seventies. In addition to automaking, American industries lost ground during the decade to the restored industrial powerhouses in Japan and Germany in other key areas, including consumer electronics, textiles, and steelmaking. Countless American corporations began scrambling to restructure through downsizing, outsourcing, and other measures that ended many Americans' jobs forever and left others forced to move from job to job and often from industry to industry.[67] A *U.S. News and World Report* look at Americans struggling with unexpected layoffs in the spring of 1974 found middle-class families trying to survive for the first time on unemployment checks, eating beans instead of meat, and worrying about losing their homes.[68]

Mobil contended that its profits were misleading, arguing for example that it was only making "slightly more than a cent and a half a gallon."[69] Another spot included a chart that indicated that consumer items such as bread, bacon, cigarettes, classified ads, dental care, and movie admission had increased in price as much or more than had gasoline between 1960 and 1974.[70] Mobil also called attention to the annual *Forbes* magazine rankings of the profitability of the 850 leading U.S business firms (measured in terms of return on investment), in which Mobil dropped from 389th for 1972 to 400th for 1973: "In fact, the list of firms that bettered us includes some of the newspaper and television companies whose people look at only dollar signs and say we make 'unconscionable' or 'windfall' profits."[71] Critics such as James Flug of Energy Action, a consumer-interest group, said, "Oil companies are so big and so complex and have so many ways of hiding their profits that they can set their figures where they want them." Deputy Energy Secretary John O'Leary compared the oil companies' reports of their profits to a shell game, with what lay beneath all the shells never fully revealed.[72]

Thus, the early seventies saw the confluence of key developments gestating in ways that would prove influential on the course of the decade. *The New York Times* made a prominent political and social forum available to more speakers — including corporate voices — at roughly the same time that big business was growing more interested in advancing its ideas and influencing public opinion. An economically devastating energy crisis also began taking shape early in the seventies. Mobil's activities represented a nexus of the developing energy crisis, the *Times* new op-ed forum, and the corporate interest in asserting its voice more loudly in the marketplace of ideas.

THE OP-ED CAMPAIGN OF CITIZEN MOBIL

On October 19, 1970, the headline in *The New York Times*' op-ed advertising corner read: "America Has the World's Best Highways and the World's Worst Mass Transit. We Hope This Ad Moves People."[73] An advocacy statement calling for greater development of mass transit was a mildly provocative one, coming as it did from Mobil, a huge oil company that made its fortune to a great extent by selling millions of gallons of gasoline each year to the drivers of automobiles. Still, in and of itself, the message offered barely a glimpse of the long-running campaign into which it would develop over the decade to come. Mobil executives were reported to have been discussing a new kind of opinion-shaping campaign since "environmentalists and tax reformers had had an especially good run of luck in arousing . . . Congress to consider making Big Oil behave" in the late sixties. Mobil did not want "any old ad space" for its messages, however. "They wanted it framed and set apart and treated with journalistic reverence."[74] When the *Times* began accepting advertising on its new op-ed page, Mobil had the forum it wanted.

Many other corporations would purchase the space in the lower, right-hand corner of the *Times* op-ed page in the seventies to disseminate their message, but no other would use it in a way that was as stylistically harmonious with the content and purpose of the rest of the op-ed page and the editorial page that preceded it each day. Over the course of the decade, the *Times* op-ed corner became "commonly known as the 'Mobil space' "[75] Quite simply, the vast majority of Mobil's messages took on both the appearance and the role traditionally borne by newspaper editorials and commentary. Most of Mobil's op-ed spots consisted of a small headline, a block of text, and nothing more. They were not labeled as advertisements (nor were other *Times* op-ed ads of the seventies). They were designed to seek their goals in the same way as does a newspaper editorial, through the force of ideas expressed in the printed word — on average more than 400 words per message, and quite often in the neighborhood of 1,000 words. In this case, the ideas were purveyed in the well-established political marketplace that is represented by *The New York Times* editorial and op-ed pages. "With sheer cash," *Esquire* magazine would observe in 1978, "Mobil has become a *Times* columnist."[76]

Herbert Schmertz, the vice president for public affairs who was the originator of Mobil's editorial-advocacy campaign in the *Times*, says today that a motivating factor for the company was to compete with news media in commenting on events and issues of the day. "The media was abrogating to itself all First Amendment claims, which we certainly did not agree with," he said. Schmertz retired from Mobil in 1988, operated his own public-relations agency for a short time, and retired to New York and Florida. He recalls that Mobil management backed the editorial-advocacy campaign enthusiastically because of what it saw as "too many attempts by the media to control the agenda and make public policy, and the distorted reporting by the media." Schmertz said he believes that Mobil was the only corporation that "made the intellectual commitment to be in the marketplace of ideas on a continuous, sustained basis." He maintains that even since then other corporations tend to conduct narrower advocacy campaigns "when they feel they are in extremis for short periods of time. Usually those statements have related to their own particular situation. But nobody has tried to participate in a broad range of public policy issues the way that we did."[77]

Many of the Mobil op-ed messages dealt with issues related to petroleum and other energy matters, but far from all. Schmertz says today that having a prominent forum to comment on the developing energy crisis was an important factor in shaping Mobil's op-ed messages. "We felt [in the early seventies] that somebody had to make the argument that we were going to be facing an energy crisis," he said. "Everybody thought we were crazy and alarmist, but what we said did transpire. Then the scapegoating began with the politicians and the press trying to put the whole onus on the oil companies, when it was really the policies of the politicians spurred on by the misguided views of the press that caused the problem." Over the course of the decade, Schmertz said, other subjects on which the company considered it important to influence debate included excessive government regulation of business, misguided and short-sighted politicians, development of nuclear energy, and news-media "irresponsibility."[78]

As discussed in Chapter One, Marchand found that the corporate response to its early-twentieth-century crisis of public confidence was an AT&T-led effort that established a working substitute for a corporate "soul" by the 1940s.[79] Mobil's op-ed ads, in turn, reflect an effort to establish for the corporation what could pass for a citizen's consciousness in the 1970s. Mobil's constructed vision of the corporation as citizen began to emerge early in the decade. That vision represented the corporation as politically engaged through expression of free speech and other rights and obligations of citizenship, exercising basic and essential American rights. In a decade in which the corporate voice would indeed be granted constitutionally protected status by the U.S. Supreme Court, Mobil framed the corporation as the concerned, engaged, rational citizen idealized in classical republican theory — working for the common good, responsible to one's fellow man, involved in civic concerns and particularly in democratic processes. Above all, this corporate citizen was framed as enthusiastically — and even fearlessly — embracing the duty to advance truth and enhance political and social decisionmaking through participation in the ongoing and unrestrained debate for which the First Amendment was established by the Framers of the Constitution.

Running throughout the Mobil messages was the proposition that this is what corporations are *supposed* to do — at the time, a radical assertion regarding the role of the corporation in American society. However, Mobil's corporate citizen not only was represented in the op-ed spots as exercising its speech rights and obligations fully and responsibly, but also as active in civic affairs, the arts and sciences, and any number of other worthwhile causes — a veritable citizen for all seasons. As a whole, the messages of the Mobil editorial-advocacy campaign served to complement the basic assumption that would underlie the Supreme Court's corporate-speech decisions of the late seventies — that corporate speech is simply the same contribution to robust debate in the marketplace of ideas as is individual speech. There was no difference in the two as Mobil articulated it in its op-ed messages, just as there would be no difference for the majority in *First National Bank of Boston v. Bellotti* and the other corporate-speech cases of the period. The Mobil and Supreme Court corporate-speech narratives cannot be said to be causally linked, but the lack of contradiction between the two is striking.

The Mobil op-ed messages are significant in part simply on the basis of the immense number that were published in the *Times* during the decade of the seventies. This research has identified that Mobil published messages in the *Times* op-ed advertising position on at least 445 occasions between 1970 and 1980, all of which were examined for this study.[80] Of that number, 332 or 74.6 percent of the messages were determined by this research to have been advocacy or issue ads, rather than what could be considered to be corporate-image ads — messages that are intended to contribute positively to the public image of the corporation, not to advocate a specific action or position regarding a political or social issue. As an indication of the breadth of Mobil's political and social commentary, 59.1 percent of the messages examined dealt with petroleum or other specifically energy-related issues, while 40.9 percent dealt with other topics, such as tax policy, the environment, foreign policy, the news media, consumer protection, education, and the arts.

Those Mobil messages are also significant for the way that they were distinguished from most of the other corporate messages that were published in the *Times* op-ed advertising spot over that time. Although some of the others did contain advocacy messages, and some occasionally utilized a text-only format to make their point, none did so regularly on a basis that even approached Mobil's use of the op-ed page. *Newsweek* said midway through the seventies that "nobody has worked harder . . . [at advocacy advertising] than Mobil."[81] Few corporations took controversial political positions of the sort that Mobil did routinely. When other corporations commented on issues, it tended to be more narrowly in terms of what organization was doing to help. Typical of this approach was the "What is U.S. Steel Doing?" series of ads published by that organization. As did most corporate op-ed messages of the period, the ads in that series looked more like product ads in that a photograph or other illustration, rather than text, was dominant. U.S. Steel, for example, presented a closeup photograph of a pine seedling under the headline "What is U.S. Steel doing to help restore our environment?" A short text block inset in the photo, in this case, noted that U.S. Steel had planted millions of trees in order to restore the environment, but said little more.[82] Other op-ed messages in that series discussed in similar format what U.S. Steel was doing "to advance modern surgery," "to help grow more food," "about art and architecture," or "to toughen the trucks that serve you."[83] Other corporate spots in the *Times* op-ed advertising position, for example, conveyed such messages as the fact that Amstar was more than a sugar company,[84] the advantages of banking with Texas Commerce Bank or Bank of New York,[85] the wonders that Monsanto had achieved in swimming-pool chlorination and panty-hose fiber,[86] Textron's expansion into fine china and crystalware,[87] the three-year growth of Ogden's earnings,[88] or the faster freight service available from the Atchison, Topeka and Santa Fe Railway Company.[89] In some cases commercial appeals were as direct to consumers as: "Ask your travel agent to book you aboard a DC-9 or DC-10 soon, and find out just how satisfying air travel can be."[90]

Mobil virtually never used the *Times* op-ed space for commercial messages during the seventies. Its only brush with commercial messages involved a few spots that promoted its *Mobil Travel Guide*, which featured maps, ratings of restaurants and lodging, and other tourist information.[91] Mobil never used the *Times* op-ed advertising position to promote any of its consumer or commercial products such as gasoline or lubricants in the seventies. Most of all, Mobil consistently used its op-ed messages to take public positions on issues of the day, a practice that began with its first spot in 1970. Criticizing American train and bus service as "decrepit" and air travel as filled with "increasing indignities," the message called for increased investment in mass transit by the federal government in order to cut pollution and wasted fossil fuels. "While Mobil sells fuels and lubricants, we don't believe the gasoline consumed by a car idling in a traffic jam (carrying a single passenger, probably) is the best possible use of America's limited petroleum resources," the spot said. "Our products ought to help more people get where they want to go."[92]

Although Mobil ran a few messages sporadically in the *Times* op-ed advertising corner in 1970 and 1971, its editorial-advocacy campaign did not really start to take form and gain momentum until 1972. Beginning in January of that year, Mobil began purchasing the *Times*' Thursday op-ed ad space, a practice it would continue through the rest of the decade. Mobil's messages in that space also began to develop more consistent and focused themes early in 1972. In January of 1972, Mobil began the year by stating what in retrospect can be considered objectives for its editorial-advocacy messages to come. Arguing that popular images of the petroleum industry as one in which freewheeling individuals struck it rich and flaunted their fortunes "in feudal splendor" were outdated, the text-only ad declared that the oil corporations now competed in complex, technologically advanced endeavors highly interdependent with modern society. "In common with many other institutions, we must strive both to understand the world we live in and to be understood," the text read. "We must be understood — as we are, not as our predecessors were — if we are to be able to operate effectively as a private business. This is why we will periodically discuss in this space some of our thoughts, our concerns, our beliefs, our practices."[93]

Construction of symbolic meaning over time was the focus of this analysis, rather than the veracity of each of Mobil's countless op-ed assertions. It is undeniable, however, that the latter can at best be considered subject to debate. *Consumer Reports*, for example, in 1974 detailed several points that it disputed in Mobil's advocacy messages. For example, the article said that it was not government regulation that had caused oil exploration and drilling to decline in the United States in recent years, but simply the fact that it was cheaper for the oil companies to do so in the Middle East where oil was easier to find and extract. The magazine also stated that the oil companies had been involved in establishing many of the import regulations Mobil was criticizing in the seventies, that rising demand for gasoline was due at least in part to oil-company promotions rather than being unavoidable, and that some shortages of industrial fuel oils were caused by U.S. refineries choosing to produce higher-profit gasolines instead.

Consumer Reports advised its readers that “whenever you see an oil company advertisement ‘telling it like it is,’ remember the words of a leading investment advisory service: ‘the U.S. energy shortage should have favorable implications for oil company earnings.’ ”[94] Regarding Mobil’s frequent blaming of government regulation for energy problems in the seventies, Sherrill noted that such regulation had a long history of being structured to benefit the oil companies. In the 1930s, for example, the Connally Hot Oil Act established price supports for oil, and in the 1950s, a federal oil-import-quota system restricted the import of then-cheap foreign oil.[95]

Paul Rutherford’s 2000 study of corporate-advocacy efforts argued that all such messages could be considered to perform a propaganda role of promoting the individual and collective causes and ideology of corporate interests.[96] *Time* magazine said of oil-company advocacy advertising on the oil crisis in general: “At their best, the institutional ads are truthful and informative. . . . Other ads are heavyhanded, self-serving and sprinkled with half truths.”[97] All such advocacy speech in fact must be qualified as potentially (if not probably) slanted and misleading. Advocacy itself is, after all, biased by definition. As Sethi observed, “It is not in the nature of advocacy advertising to present a balanced picture.”[98] An accounting of the full degree of truth or falsity present in the Mobil op-ed spots, which were positioned in the *Times* as opinion, did not accompany the themes and frames at the time that they were disseminated. Therefore, although other views and accounts from the period are included in this study to provide perspective on many of Mobil’s representations, the framing analysis sought primarily to describe persistent patterns in the thematic construction of the messages examined herein.

The terminology for identifying and describing those patterns systematically was guided by Altheide’s conceptual relationship in which “the actual words and direct messages of documents carry the discourse that reflects certain themes, which in turn are held together and given meaning by a broad frame. . . . Frames are a kind of ‘super theme.’ ”[99] Over the course of the seventies, Mobil’s discourse and themes established for it an op-ed “super theme” or dominant frame that sought to represent the corporate voice as a natural and vital component of the robust political and social debate that the First Amendment exists to foster. The dominant framing in turn was advanced most consistently through the use of seven themes. They were: the corporation (1) as responsible citizen, (2) as voice of reason, (3) as societally concerned, (4) as civically engaged, (5) as civilizing force, (6) as expert, and (7) as vital democratic participant.[100] Those themes cumulatively contributed to construction of the "super theme" or dominant framing of the corporate discourse examined in this study. As Entman asserted, "Frames reside in the specific properties of the . . . narrative that encourage those perceiving and thinking about events to develop particular understandings of them . . . and [that] convey thematically consonant meanings across media and time."[101]

The Corporation as Responsible Citizen

Early in its editorial-advocacy campaign, Mobil began constructing an ongoing theme of the late-twentieth-century corporation as not simply a commercial entity but as a responsible citizen. This theme was advanced through use of catchphrases such as "sensitively concerned with society's problems and hopes," "responsive," and "intricately involved in all the complexities of this complex world."[102] The *Times* op-ed spots offered images of the modern corporation as actively going beyond its economic interests to participate in solving society's problems. Contradictory images that critics of corporate activity might hold were depicted as the product of "stereotypes and obsolete concepts." In the distant past the corporation might have existed only for commercial activity, these advocacy messages asserted, but no more. "Times have changed," a Mobil op-ed message said in 1972. "So have many of us big businesses."[103]

Later that year, Mobil would declare in another op-ed message that the labels "free enterprise" and "private enterprise" were no longer sufficient for the contemporary nature of corporate activity, and should be replaced by "responsible enterprise." Corporations, it said, no longer felt free to pursue their own interests when they "conflict with the needs of society as a whole," and instead strove to make decisions "with all of society in mind." Emphasizing responsibility in those sort of broadly inclusive terms contributed to another important facet of this theme. As Mobil defined the needs of society as a whole, they included "the needs of shareholders for an adequate return on capital." This idea would be utilized in the Mobil op-ed spots in many ways in an effort to represent concern for profits as responsible and socially minded, "because no company can be very responsive unless it is profitable: only a company that does well can do good."[104] It was often through its depictions of the role of profits that Mobil would link the corporation to responsible citizenship. The corporation's need to be a part of society was characterized as so great that even when it made mistakes it would ultimately "do good in order to survive" and stay profitable.[105]

The Corporation as Voice of Reason

Late in the 1970s, Mobil packaged a group of its *Times* op-ed messages with a continuing-series logo of "Business and the Rational Mind."[106] Long before that, however, the editorial-advocacy campaign had begun emphasizing that recurring ideal — reason and rationality as inherent qualities of the corporate citizen in its participation in public life. Over the course of the decade, the Mobil messages consistently represented the corporation as a source of reason among what it depicted as a virtual cacophony of illogic and confusion on the part of government, news media, environmentalists, and others who took positions at odds with those taken by big business in general — and especially those at odds with Mobil. The corporation was represented as a member of society whose very nature provided other citizens with a vehicle for rational improvement of society: "Because . . . [business's] own long-term self-interest dictates a better life for people everywhere . . . its record for bringing change-with-meaning to society is impressive. Which has an obvious moral for anyone today who wants to change the world rationally and constructively."[107] In this manner, the Mobil op-ed messages frequently presented the answers it offered for societal problems as simple lessons in making rational choices.

For example, as public awareness began to grow of the severity of the energy crisis in the early 1970s, Mobil defined the problem as one that it and other members of the oil industry had warned the government about well in advance. "We knew how it could be averted," and according to Mobil, the rational response would have been for government leaders to follow the advice of the oil companies.[108] In one 1973 op-ed spot, Mobil presented eleven headlines from previous messages it had published earlier that year and during the previous year that it said had warned of the looming crisis, providing what was offered as a visual demonstration of the good advice it had been providing. The text said that "when people ask us why energy shortages have taken us by surprise, we tell them we're not at all surprised. Just sorry."[109] Mobil depicted the rising costs of gasoline as nothing more than simple cause-and-effect logic: "The costs of finding oil, bringing it out of the earth, getting it to a refinery, turning it into useful products, and getting those products to market increase year by year. And the more it costs us to do business, the more our products have to cost you sooner or later."[110]

The answers for solving the energy crisis, according to Mobil's ongoing framing, were also quite clear if one only considered them rationally. One of the clearest answers, the Mobil op-ed spots repeatedly stressed, was the abandonment of what were characterized as illogical fears that the environment was endangered by efforts to locate and extract more oil from the earth. Environmental protection and oil production were frequently represented as compatible rather than conflicting concerns, if "reasoned, sensible, balanced approaches" were followed.[111] For example, one op-ed message said that the United States would have more of the new oil refineries it needed if not for "legislation and litigation arising from exaggerated environmental fears." Therefore, the logical solution, Mobil said, would be to "develop socially and economically acceptable balances."[112] According to other Mobil op-ed spots, it was nothing but those sort of irrational fears that had delayed development of America's offshore oil fields and delayed construction of nuclear power plants. "The moral is obvious," Mobil said. "The U.S. must formulate rational and comprehensive long-term energy policies to minimize our dependence on other countries."[113] Only the illogical would demand "a 100% guarantee on all of mankind's activities," another op-ed spot declared. "People must strike a balance in their environmental demands."[114]

Other voices in the *Times* during the early seventies disputed the assertion that environmental concerns on such energy issues were irrational. David Brower, president of Friends of the Earth and director of the John Muir Institute for Environmental Studies, argued in a *Times* op-ed column that such projects as the Alaska pipeline in fact represented great *imbalance* both environmentally and economically. Brower said that not only were the environmental risks far greater than admitted by the oil companies that wanted to build the pipeline immediately and pump Alaskan oil as rapidly as possible but that the

American economy would gain more lasting benefit by instead slowing the growth of its oil consumption. That would, he said, allow precious domestic reserves such as those in Alaska to serve the nation on a longer-term basis and provide time for environmentally safer means of transporting the oil out of Alaska to be developed. “We are not obliged to use up wantonly whatever oil resource we stumble into simply because it is there, and because after half-evaluated overrushed studies we imagine we know how to pipe it safely to market,” Brower wrote.[115] The *Times*, while not expressing strong opposition to the pipeline project in its editorial, did urge the government to proceed slowly with the process of assessing environmental impact and developing an effective plan for protecting wilderness, wildlife, and fisheries.[116]

The Corporation as Societally Concerned

Citizen Mobil additionally justified the rightness of its positions through frequent constructions of its motives as rooted in a deep concern for those in society who had yet to enjoy prosperity. Providing opportunities for them to do so, in Mobil’s representations, was a core objective for the modern corporation, particularly the modern energy corporation. Mobil’s opposition to energy policies that were focused primarily on conservation, for example, was often asserted in terms of concern for the millions of Americans who still had “a long way to go before they reach middle-class comfort. . . . [The argument for energy conservation] is the back-door argument against economic growth.”[117] Mobil also represented its position on this issue as a lesson learned from history, when through the “Enlightenment . . . the Age of Rising Expectations” humanity had chosen to embrace a philosophy that the future offered endless opportunity for material progress: “We at Mobil cast our vote with those who cry, ‘Forward!’ ”[118] In this context, the contributions of the corporate citizen were said to offer more real promise for deprived victims of “economic stagnation” than did what were characterized as misguided efforts of liberal social reformers. Mobil depicted pro-growth economic policies as the only way to remedy what it called poverty’s “pollution of human existence.”[119] Such catchphrases were employed as shorthand for the problems asserted to be caused by conservation and slow-growth efforts.

This representation of the conditions and actions necessary for meaningful social improvement incorporated Mobil's continuing theme that high prices and large profits for oil companies were not only justified but linked directly to the aspirations of the world's have-nots. If prices did not rise, the oil industry would not be able to deliver the energy needed to raise the living standards of the poor.[120] In this depiction, it was the needs of the people that drove the oil giants toward greater profits because "if oil companies are to have enough money in the years ahead to make the investments they must make to meet people's growing needs, their earnings will have to rise faster. There is just no other true solution."[121] Time and again, the op-ed spots defined the problem of rising energy prices in terms of how it would improve conditions for the poor by allowing oil companies like Mobil to grow "big enough to do our job."[122]

In a *Times* op-ed piece that challenged the vision of oil-industry expansion as a panacea for poverty, former Secretary of the Interior and U.S. Representative Stewart Udall called for "drastic action to reverse our voracious consumption of petroleum products," including higher gasoline taxes to generate funds for dramatically expanding public-transportation systems. If energy policy were structured to "initiate sweeping changes in our whole petroleum-based transportation system," instead of increasing the earnings of oil companies, Udall said, it would reduce air pollution, slow urban sprawl, and reduce the nation's dependence on imported oil.[123] Also on the *Times* op-ed page, H.V. Hodson contended that the "mad pursuit of growth" actually lowered living standards for most of the world's poor because it disproportionately misdirected resources in quest of market gains rather than social needs. Hodson, Provost of the Ditchley Foundation, an organization that promoted American and English cooperation in addressing social problems, said slower growth would more successfully address such issues as excessive urbanization, inner-city decay, traffic congestion, and quality of life.[124] The *Times* editorialized in favor of development of alternative energy sources such as solar energy, oil shale, and geothermal energy, declaring that with soaring oil prices, "the economic advantage that has made petroleum the industrial world's primary fuel begins to fade away."[125] A *Times* op-ed column by inventor and philosopher R. Buckminster Fuller presented an elaborate mathematical analysis asserting wind power as the most efficient form of energy available to the world.[126]

The Corporation as Civically Engaged and as Civilizing Force

Two themes that recurred in the Mobil op-ed messages, but which contributed to a lesser degree to the thrust of the messages' dominant framing, were the corporation as civically engaged and as civilizing force. Rather than serving to directly help define the focus of the op-ed campaign, these themes instead added complementary elements to it. In the larger representation or "super theme" of the Mobil messages, the themes discussed in this section played a secondary role in depicting the corporation as a holistic participant in American life, and not simply an economic participant.

Many Mobil op-ed spots sought to convey the point that its societal concern was not one that it exercised only in theory or on the pages of *The New York Times*, but one that it practiced in the inner city and in the schools, in the arts and in the parks, on basketball courts and in hospitals. Citizen Mobil, these spots emphasized, was engaged in an impressive array of civic efforts. Such messages were frequently more than pure image ads in that they often took positions on issues related to civic life and called for action in relation to those issues. Certainly, the many public-minded endeavors that were promoted in the spots throughout the seventies reflected a substantial degree of tangible support for the various civic organizations involved, as well as for those individuals and groups who were the beneficiaries of the organizational efforts. However, in regularly adding mediated representations of its civic activities to the narrative represented by its weekly *Times* op-ed spots, Mobil benefited from what those representations contributed to its larger framing effort. In constructing the corporation as citizen, such messages helped round out or add facets to the nature of corporate behavior that was being asserted. It helped characterize that behavior as extending beyond the financial purposes for which business corporations were chartered.

In its civic-oriented op-ed messages, Mobil often suggested that while government might fail in its efforts to improve problem situations, the corporation could make a difference. Typically, the op-ed message of this sort would discuss a problem, note in some way that

Mobil was involved in addressing it, and then urge other corporations to get involved. One of the most complete statements of Mobil's depictions of the corporation as civically engaged was a spot that called for support of the Community Development Corporation in alleviating poverty. "The American system of welfare has never really worked," the op-ed message said. "But there is one solution to poverty that offers real hope." The program set up partnerships between residents of poor neighborhoods and businesses to address community problems through what Mobil called "a form of American capitalism."[127] Similar causes promoted by Mobil in its op-ed spots included the Interracial Council for Business Opportunity, which assisted minority businesses;[128] the National Association for the Advancement of Colored People;[129] the Legal Aid Society of New York;[130] and the Harlem Professional Basketball League, a three-day, annual tournament that raised money for youth programs.[131]

Another focus of Mobil's civic-oriented op-ed messages was its depiction of consumer interests as best protected by Better Business Bureaus — "what consumerism is all about," in the view of the oil company.[132] In spots for the Better Business Bureau of Metropolitan New York,[133] Mobil said that consumer protection was the function of citizen consumers and citizen corporations working together, rather than something provided by government: "It seems to us a sort of moral contract exists between buyers and sellers. Sellers are responsible for providing worthwhile goods and services at reasonable prices. Buyers are responsible for knowing enough to get what they've bargained for."[134]

A considerable number of Mobil's civic-oriented op-ed messages promoted various efforts to benefit children and youth, such as corporate fund-raising for *Sesame Street* and other public-television shows for children;[135] the Boys Clubs of America and the Boy Scouts;[136] youth job programs funded at least in part by businesses, such as the Jobs for Youth Summer Work Scholarship Program and the High School Service Station Training Program;[137] and the need for greater corporate support for American colleges and universities. Regarding the last of those, Mobil said that "government has gone about as far as it can" in financing higher education.[138] Many other of Mobil's civic-oriented op-ed messages promoted public-health issues, such as needed support for the work of the New York Hospital Burn Center,[139] for a greater corporate role in training employees in cardiopulmonary resuscitation techniques, and for blood-donor drives.[140] Another significant focus of the op-ed messages was corporate support for the arts, such as the Kennedy Center for the Performing Arts in Washington. Mobil said the center was supported less by government funding and more by the Corporate Fund for the Performing Arts, an alliance of business interests, including American Can, Atlantic-Richfield, AT&T, DuPont, Exxon, GE, GM, IBM, Prudential, and U.S. Steel.[141] Other Mobil op-ed messages advocated support for various museums, such as the American Museum of Natural History[142] The Museum of Modern Art Sculpture,[143] summer arts productions and festivals,[144] the Whitney Museum of American Art, the Smithsonian Institution,[145] and the Cooper-Hewitt Museum.[146]

Another group of Mobil op-ed messages from the *Times* that played a supporting role in the overall framing of the editorial-advocacy campaign constructed a theme representing the corporation as a civilizing force through its involvement in the presentation of enlightening and sophisticated television. The focus of Mobil's activity in this area was its funding of the annual series of *Masterpiece Theatre* presentations on public television — which during the seventies became, in Mobil's characterization, "the Sunday Night imperative for viewers who like their TV literate."[147] That act of corporate sponsorship began in 1970 and continued through 2004 (by Exxon-Mobil after the 1999 merger). Support for that and similar presentations provided Mobil with regular and prominent association with quality drama — Mobil-sponsored shows such as *Upstairs Downstairs* received twenty-five Emmy Awards for excellence from the National Academy of Television Arts and Science during the seventies.[148] As with the civic-oriented op-ed messages, this group of messages contributed to the effort to frame the corporation as a multi-faceted entity involved with diverse aspects of life. Mobil declared that it had been committed to supporting public television since the beginning of the decade "because we think a corporation has a duty to contribute to the enrichment of the society in which it lives."[149] The Mobil op-ed spots promoting *Masterpiece Theatre* were numerous and presented with an emphasis on quality and sophistication. Representing that quality in close association with what was characterized as the quality of the Mobil Corporation was a prominent component of the messages. By the mid-

1970s, Mobil declared that viewers had come to link its name with quality on the tube, lauding "the standard of excellence television audiences have come to expect of the dramatic fare made possible by Mobil on public television."[150]

Mobil Vice Chairman Herman J. Schmidt said in 1976 that the company's public-broadcasting sponsorships were part of its larger public-relations effort: "A reader sees a Mobil message and associates it with Big Oil. So he may be wary. But he also associates it with the company that brings him *Upstairs Downstairs*, so maybe he's a little more open-minded and a little more receptive."[151] The programs "build enough acceptance to allow us to get tough on substantive issues," said Raymond D'Argenio, a Mobil public-relations director of the seventies.[152] Television critic Nicholas von Hoffman, however, disparaged Mobil's use of public-television sponsorships as vehicles for corporate promotion. "It appears that what PBS has become is a very inexpensive way to do institutional advertising to a group with premium demographics: high income, high status, high-educational types." He also noted that sponsoring programs on public television was relatively cheap because "taxpayers and individual small donors pay 99 percent of the freight. Then a company such as Mobil can move in for a couple hundred grand and get the credit."[153]

In the larger editorial-advocacy campaign, Mobil's civic-oriented and civilizing-force spots represented a contribution of limited significance, basically only adding supporting expressions of expansive corporate citizenship to the more significant themes. Commentators have argued that Mobil's charitable giving in the seventies was actually less than that of most other large corporations and that Mobil used its sponsorship of public television mainly to "butter up" movers and shakers in Washington and "soften the general middle-class populace."[154] In any case, the civic-oriented messages were not by any means the central focus of Mobil's editorial-advocacy campaign. They did provide some sense of balance to the campaign, contributing to the larger framing effort of representing the corporation as a holistic participant in American society, rather than strictly an economic participant. Because these two themes were minor ones in the overall framing of the campaign, however, they will not be elaborated upon further in analysis of the Mobil campaign later in the seventies.

The Corporation as Expert

Another recurring theme of the Mobil op-ed messages was the practice of associating the positions it advocated with sources who were represented as experts and authorities on the respective subjects. It was a regular practice on the *Times* op-ed page for Mobil to depict its corporate views as closely aligned with those of such experts on virtually every major issue of concern to the corporation. Representing ideas and assertions in this context served to encourage understanding of the advocacy messages as derived from more than strictly the commercial interests of a corporation.

Mobil's op-ed messages, for example, put forth a variety of experts in support of the proposition that expanded development of petroleum resources and greater economic growth were not incompatible with protecting the environment. In that effort, environmentalist Barry Commoner was quoted as stating that it is not a fact that "any increase in economic activity produces more pollution."[155] Another op-ed spot cited a three-year United Nations study by an international team of economists headed by Nobel Prize winner Wassily Leontief, which concluded that "the world is fully capable of supporting a growing population at higher living standards without environmental damage."[156] Three years after the 1969 oil spill from offshore drilling operations near Santa Barbara, California, had received considerable news-media attention, Mobil published highlights from a study of the accident by a University of Southern California marine biologist, Dr. Dale Straughan, and forty other scientists. The op-ed spot said the study had concluded that "environmental damage was minor and temporary and is well on the mend."[157]

Other examples of this use of experts to add authority to the Mobil advocacy messages included excerpts from a 1973 book, *The Doomsday Syndrome* by John Maddox, a physicist and editor of the British scientific journal *Nature*, in an op-ed spot that year. It asserted that technological development offered the means for a better environment and better living standards for the poor.[158] An op-ed spot on the research of Columbia University professors Peter Passell and Leonard Ross argued that economic growth could do for the poor what Congress could not.[159] Another Mobil message excerpted comments made by Dr. Hans Landsberg, director of a nonprofit research-and-education corporation called Resources for the Future, at a symposium of the American Academy of Arts and Sciences. He contended that people tend to take for granted the benefits of technology because safe water, food, and medicines, have become commonplace. "We are quick to lament the fallen sparrow, but slow to celebrate the fall of 'Typhoid Mary,' " he said.[160] Mobil also quoted "petroleum economists" at Chase Manhattan Bank as concluding that oil-company profits were essential in order to resolve the energy crisis.[161]

The Corporation as Vital Democratic Participant

Of all the themes that contributed to Mobil's dominant framing in its *New York Times* editorial-advocacy campaign, none was more significant or revealing than that of the corporation as vital democratic participant. The early seventies saw the beginnings of such representations, and the theme would become a more frequently recurring one, which would grow more sharply focused and forcefully expressed as the decade proceeded. In Mobil's articulation of this theme in its *Times* op-ed messages, the sort of participation that it championed was represented unequivocally as what corporations are *supposed* to do in the American system. "We have participated in the energy dialogue in order to help an informed public make rational judgments," a Mobil op-ed spot declared. "This, we believe, is our right and our responsibility in a pluralistic — and open — society."[162]

The theme began to emerge in 1974 in ways that resonated of First Amendment concepts associated with an individual's right to free expression. The language in those messages represented corporate speech as a vital source of ideas to be tested against others in the political marketplace of American democracy. The concept of ideas competing freely with each other, with truth ultimately overcoming falsehood in such a competition, is one with deep roots in First Amendment theory.[163] With increasing intensity over the course of the seventies, Mobil's op-ed messages reflected a rhetorical coalescing of the corporation into the discursive process idealized in marketplace-of-ideas concepts but previously considered in terms of the speech of human individuals.

"An oil company has to find some way of speaking its mind and letting the public know what's going on, especially now," said a 1974

Mobil op-ed message, one of the first of the "Musings of an Oil Person" that were presented in a first-person style and formatted as one solid text block with no indentations, suggesting a stream of consciousness. It went on to empathize with the anger of Americans who that year were often finding themselves waiting in long lines to pay high prices for gasoline. To address the crisis, the reflective text concluded, would take information as much as action: "Dammit, we're a can-do company in a can-do country. . . . Give people the facts. Give them genuine information. Speak out. Persuade them to listen."[164] Another op-ed message from that series both lauded the function of a free marketplace of ideas and warned of the dangers of denying the corporate voice a role in the debate. Those elements would be developed and focused more sharply and compellingly in the mid- and later seventies. In 1974, they were offered relatively more tentatively: "Who tells the [oil-industry] critics when they're wrong? What if their biases have the unintended result of clobbering the energy consumer?"[165]

Times columnist Tom Wicker on the newspaper's op-ed page in 1974 decried oil-company advocacy messages like Mobil's as "pious, self-serving, devious . . . [and] positively sickening," rather than as contributors to democratic debate. Wicker also argued that because Americans were essentially as dependent on gasoline as they were on electricity that the oil companies should be regulated as public utilities in the same way that utility companies were.[166] Alfred E. Kahn, then Dean of the College of Arts and Sciences at Cornell University and later an economic advisor to President Jimmy Carter, said in a *Times* op-ed column the same year that Mobil did deserve credit for publishing several warnings in its op-ed ads that the energy crisis was coming. Beyond that, however, Kahn declared that Mobil's discourse on energy policy was flawed by a failure to concede the role that the oil industry played in exacerbating domestic crude-oil shortages and by an insistence on blaming environmentalists for problems caused mainly by the oil companies themselves.[167]

In promoting themes of the corporation as a concerned, engaged voice of reason, the advocacy messages — above and beyond their respective topics — cumulatively encouraged a broader understanding of a corporate citizen that was enhancing political and social debate. Mobil particularly emphasized images of the corporation as helping to fulfill essential First Amendment purposes of fostering ongoing and unrestrained debate. As government scrambled to develop an effective response to the energy crisis and related woes in the early seventies, corporate speakers such as Mobil began offering answers of their own. Although energy problems in the United States would ease somewhat in the middle years of the seventies, Mobil would go on to exercise the corporate voice in an even more forceful manner in its editorial-advocacy campaign.

This page intentionally left blank

CHAPTER THREE

1975-77
Citizen Mobil Goes Its Own Way

In 1975, oil profits dropped off from the record levels of the previous year, and the economy experienced a relatively stronger stretch.[1] For a time in 1977, world oil supplies improved so much that a glut developed. Tankers full of oil waited in line at ports because storage tanks were so full there was no place to unload the cargo of the giant vessels. Gasoline prices in some parts of the country were even cut during the summer of that year.[2] Though those conditions would not last long, the middle years of the seventies were characterized by a relative lull between oil-crisis peaks earlier and later in the decade. Despite a number of proposals from Congress and the White House, the United States would remain the only major nation without an energy policy as late as 1978. Even so, the rate of energy consumption was moderated for a time by such changes as better home insulation and fuel efficiency on new cars — which improved from under fourteen miles per gallon in 1974 to almost nineteen by 1978.[3]

Corporate interests continued to escalate efforts to influence American political processes in the mid-seventies, with the unprecedented unity and focus of those efforts demonstrated by the growing might of the Business Roundtable. "After several years of near-clandestine existence," *Business Week* declared, the Roundtable "emerged as the most powerful voice of business in Washington" in 1976.[4] The organization had been formed in 1972 by between 150 and 200 of the chief executive officers from the nation's largest corporations in order to establish a unified political voice representing their diverse business interests. The Roundtable's activities included one-on-one lobbying of legislators by the CEOs directly, campaign-finance spending through political-action committees, and media activities designed to shape public opinion. All were focused on the organization's ultimate goal of playing "an active and effective role in the formation of public policy."[5] The Roundtable's corporate membership consisted of virtually every important company in every industry, including General Electric, Westinghouse, U.S. Steel, ALCOA, IBM, Xerox, AT&T, American Express, Merrill Lynch, Bechtel, International Harvester, Boeing, Bank of America, Citibank, Coca-Cola, Nabisco, General Foods, Quaker Oats, Du Pont, Dow Chemical, Monsanto, Allied Chemical, Johnson and Johnson, Procter and Gamble, Merck, Ford, General Motors, Chrysler, Sears, Firestone, and Goodyear. Mobil was a member, as were Exxon, Gulf, Phillips, Shell, and Texaco.

The Roundtable's activity in Washington first made the front page of the *Times* in 1975, in a story crediting the organization with killing a U.S. House bill that would have given state attorneys general greater powers in antitrust prosecution. House members on both sides of the issue pointed to the Roundtable, which the *Times* described as "a little-known organization whose members are all giant corporations," as the major force in lobbying efforts against the bill. Other issues being targeted by the organization were identified by its executive director, John Post, a former management consultant registered as a federal lobbyist who often compared lobbying campaigns to great military battles of World War II and the American Revolution.[6] Those issues included changes being considered in taxes on corporations' overseas profits, decontrol of natural gas prices, environmental legislation, and the proposed creation of a consumer-protection agency.[7] A few months after that, the organization was reported to have acquired "substantial legislative clout [in Washington], primarily because of the high-powered nature of its corporate members." However, Congress by then had also begun to seek more information about the Roundtable, forcing it to make its full membership list public — something the organization had refused to do through the first three years of its existence. In early 1976, Wright Patman, the venerable East Texas populist then in his forty-eighth year in the House, criticized the Roundtable for its instrumental role in blocking a bill of his that would have required an audit of the Federal Reserve Board. The Roundtable, he said, "seems to sweep out of the night, kill public interest legislation, and then disappear."[8]

After the election of Jimmy Carter later in 1976, the Roundtable would reach what by some measures was its peak of influence. Later in Carter's term, *The Nation* would declare the Roundtable had grown more powerful than much longer-established business organizations such as the National Association of Manufacturers and the United States Chamber of Commerce, both of whose memberships represented broader business interests, including large numbers of smaller firms.[9] Although Carter had been elected with little support from big business and initially tried to keep his interactions with its emissaries at arm's length,[10] the new president eventually would come to declare he was "very reluctant" to proceed on major decisions without input from Roundtable leaders. Carter found the Roundtable's support useful in helping him resist pressure from liberals to implement mandatory wage-and-price controls and from conservatives to junk the Panama Canal treaty.[11]

The Roundtable also scored big with its own agenda during the Carter Administration, however, defeating labor-law reform and winning a very close battle on the proposed consumer-protection agency, a bill fought over so contentiously that consumer advocate Ralph Nader declared it in 1977 to be "the most heavily lobbied piece of legislation ever to be considered by Congress."[12] The Roundtable was even said to be responsible for "designing the first Carter tax program" and "excising all references to antitrust" from one of his presidential State of the Union addresses.[13] As Carter distanced himself in many ways from liberal constituencies, business leaders came to believe "his bark was worse than his bite"[14] and gave him at least grudging support early in his Administration.[15] By midway through Carter's term, *U.S. News & World Report* declared the "drubbing that business took in the late 1960s and early 1970s" in Washington was over, replaced by "one victory after another" in the latter part of the decade.[16]

In the spring after Carter's inauguration, Congress for the fifth time in seven years considered a bill to create a consumer-protection agency. The bill, which would have empowered the new agency to intervene in the proceedings of other Federal agencies and departments when it deemed consumer interests justified such action, had barely failed in 1975 under threat of veto by President Gerald Ford. When the 1977 bill made it out of the House Government Affairs Committee by only a 22-to-21 vote, it demonstrated how consumer forces and major business interests were "still locked in a struggle of major proportions" over the issue.[17] The *Times* editorialized that the agency would "simply . . . inject a consumer perspective into governmental procedures. . . .

Representation in Washington requires money and expertise. Business organizations maintain staffs of lawyers and lobbyists to monitor government actions. Consumer groups . . . lack the resources to follow the hundreds of debates that occur throughout the bureaucracy. That would become the job of the proposed consumer protection agency."[18]

Opponents contended in such media messages as a full-page ad by the U.S. Chamber of Commerce that the government "has countless agencies to protect the consumer. We do not need a new Agency for Consumer Advocacy."[19] That ad, which featured a copy of an article by former Watergate prosecutor Leon Jaworski criticizing the proposed agency and cited an Opinion Research Corporation poll that reported most Americans opposed such an agency, drew condemnation from Illinois Senator Charles Percy. In a letter to the *Times*, he pointed out that the ad failed to disclose Jaworski had been retained by the Business Roundtable to work against the proposed consumer agency. Percy also noted that the poll as well was Roundtable-sponsored and was a "highly biased," two-year-old effort, which analysis by the Library of Congress [at the request of congressional supporters of the proposed agency] had concluded was "slanted to produce a particular result."[20]

The Carter Administration supported the creation of the agency but went along with revisions that weakened the original bill, costing the proposal some liberal supporters while ultimately not winning over enough conservative support.[21] The bill was defeated by thirty-eight votes in the House in February 1978. "I am frightened for my country after seeing this demonstration of corporate power," said Esther Peterson, the president's consumer-affairs adviser, after the defeat.[22] *Fortune* magazine declared that the proposed agency had been a victim of "the new firepower of business on Capitol Hill," with the Roundtable "overshadow[ing] all the other business associations in Washington."[23]

Carter also backed — again with moderating revisions — the top legislative priority of the late seventies for labor leaders, the Labor Law Reform Act, which would have expedited settlement of unfair labor practices and stiffened penalties for labor-law violations. The bill passed the House easily and appeared headed for victory in the Senate but was blocked by a filibuster led by Republican Senators Orin Hatch and Richard Lugar. Supporters of the bill were able to come as close as two votes to the sixty required to end the filibuster, but ultimately intense lobbying by opponents forced the bill back to committee, and it never emerged again. *The Nation* pronounced the defeat "a catastrophe for American labor . . . [that] heralds an end to the epoch of industrial relations that began in the later stages of the New Deal."[24] Analysis of those two major congressional battles has concluded that although many other business interests worked against the bills, the key to maintaining a united political front was the Roundtable, which proved "strong enough and far-sighted enough to transcend the interests of individual enterprises and work for common concerns."[25]

Not all the Roundtable's major efforts of the period were focused on consumer and labor legislation. The organization's work to reach an accord on a contentious 1977 bill barring Americans from participating in an Arab boycott on doing business with Israel was widely hailed as an invaluable breakthrough achievement. The boycott had begun after the nation of Israel was established in 1948, but as Arab states gained political clout during the seventies, they intensified demands for companies to join the boycott.[26] Essentially, Congress and the White House stood back and allowed the Roundtable and the Anti-Defamation League of B'nai B'rith to hammer out the framework of the anti-boycott measure. Once the two sides reached agreement, Congress quickly passed the bill, and Carter signed it into law.[27] In another bit of quasi-governmental activity, the Roundtable worked with the Carter Administration to help develop federal-employee performance standards when the Civil Service Commission was restructured in 1979.[28]

MOBIL IN THE MID-SEVENTIES

Although Mobil was a member of the Roundtable, it was also willing to break from the organization, sometimes in a most public manner. When the 1977 anti-boycott bill was being negotiated by the Roundtable leadership, for example, Mobil devoted two lengthy *Times* op-ed messages to questioning the wisdom of legislation that it said "in effect would either penalize American companies or prohibit them from doing business with and/or in Arab countries."[29] That drew a sharp round of criticism from supporters of the bill, including a full-page ad by the Anti-Defamation League with a huge headline that asked: "Is the Mobil Oil Co. Standing Up for America, or Getting Down On Its Knees to the Arabs?"[30] Mobil answered the criticism with an even longer (more than 1,000 words) op-ed spot insisting that it was "totally opposed to boycotts based upon race, religion or national origin," but that "we also stand on another principle — the right of the American people, all the people, to debate freely and openly any issue that could have a pronounced effect upon their lives."[31]

Polls showed in the early months of his presidency that Carter had received strong approval from a majority of Americans when he moderated his image by "stressing his desire to balance the Federal budget and taking actions that disappointed organized labor and liberal Democrats."[32] When Carter warned of a "national catastrophe" looming in the years ahead if the energy crisis were not addressed through higher prices, strict conservation, and "the moral equivalent of war,"[33] citizens polled after the president's speech expressed confidence in him to handle the situation effectively. However, most also said they were not convinced the crisis was truly serious.[34] Throughout much of the mid-seventies, despite "repeated warnings about the energy crisis, impassioned presidential statements, . . . and reams of statistics, . . . nothing seem[ed] to persuade the public" that the problems should be of much concern to them.[35] When Americans did begin to be painfully convinced of the severity later in the decade, as the price of gasoline again spiked sharply upward, it would have devastating political consequences for the president.

During that time, Mobil would become one of the harshest critics of Carter's handling of the energy crisis. Earlier in the seventies, Mobil had emphasized conservation as a key to addressing the problems. Several of its *Times* op-ed spots emphasized that message, declaring that "the most important thing we can sell right now is energy conservation"[36] and "while the energy gap persists (and it is likely to, for some time) conservation is going to be exceedingly important to us. To you, too."[37] Mobil stopped product advertising for several years beginning in the summer of 1973, announcing that it would redirect its efforts "toward broad public-service and public-information programs covering the conservation of gasoline and specific suggestions on more efficient use of available energy." In a statement akin to Carter's "moral equivalent of war" rhetoric a few years later, Mobil Chairman Warner said, "The American public must develop a new national ethic with respect to the use of energy."[38]

Mobil never stopped paying lip service to the importance of conservation, but as the decade proceeded, the company's position on national energy policy placed less emphasis on conservation and even derided those who in Mobil's view over-emphasized conservation. "Conservation needs to be coupled with an equal emphasis on developing more energy supplies in this country: not only petroleum, but coal and other alternate sources," Mobil stated.[39] After a 1977 news conference by Carter on his energy plan, Mobil said that the "average citizen must be more confused than ever about the true nature of America's energy problems."[40] Another op-ed spot on Carter's energy plan declared: "Conservation alone is not an energy plan."[41] In Mobil's view, "conservation . . . should certainly not become a moral issue, and federal administrators should not become the arbiters of public morality."[42] By late 1977, Mobil's *Times* op-ed spots were contrasting its energy-policy recommendations as forward-looking and the president's as little more than sacrifice for its own sake: "The people should receive something besides belt tightening for their money."[43]

In the mid-1970s, Congress passed "numerous bills" related to the oil companies in what *U.S. News and World Report* described as the "most serious political attack [on the industry] since the Rockefeller oil monopoly was broken by antitrust action in 1911." One oil analyst predicted that within a decade the oil companies would be similar to utility companies in the way they were tightly regulated by the government.[44] *Newsweek* reported that the U.S. Senate was "engaged in a serious drive to break up the oil industry," with various divestiture proposals that would "slice" the large, integrated companies into smaller operations.[45] Those measures failed in 1975, but by narrow margins.[46] Efforts continued the next year to force the largest oil companies to divest themselves either horizontally (of non-oil businesses) or vertically (of all but a single petroleum operation — production, transportation, refining, or marketing). *Forbes* magazine in early 1976 considered some form of breakup legislation "inevitable."[47] Senator Birch Bayh of Indiana, who ran for the 1976 Democratic presidential nomination, was an outspoken leader in efforts for a breakup, declaring, "If there is one symbol of the Establishment ripping off the people, it is the oil companies."[48] Carter, the man who wound up as the Democratic nominee and then president, would come to publicly denounce the oil companies in similar terms. At a televised press conference in 1977, he said that oil companies were "seeking the biggest rip-off in history" for opposing an early plan of his to tax oil as it was pumped out of the ground and rebate most of the proceeds to consumers. The oil companies lobbied to receive the proceeds themselves, ostensibly to finance exploration for new domestic oil sources.[49]

Mobil remained unapologetic about its enormous profits in the seventies, contending that it had always served Americans well and that the energy shortages that raised prices were due mainly to the ineptness of government. Mobil's op-ed messages increasingly would depict government as the problem and private industry as the solution. "Who offers the best chance of overcoming the present shortage — the private oil companies or the government?" it asked. "Do you really want to turn the job over to the people who brought you the U.S. Postal Service and the natural gas shortage?"[50] Chairman Warner said of his company's frequently pugnacious public stances, "People know that if they take a swipe at us, we will fight back."[51]

While Mobil remained the most prominent corporate voice on the *Times* op-ed page in the mid-seventies, other major oil companies also shifted emphasis from product advertising to image advertising, reducing industry spending on the former from $164 million in 1972 to $40 million in 1974. Sun Oil's advertising manager, Dean Lind, explained that oil companies were worried that consumers would be offended at advertising that promoted gasoline sales during a time of oil shortages. Amoco put singer Johnny Cash in its ads to encourage motorists to "drive slow and save gas." Exxon featured football coach Bud Wilkinson explaining what it considered the reasons for the fuel shortage.[52] The new emphasis in oil-industry advertising led several members of Congress to ask the Federal Trade Commission to require the oil companies to substantiate claims relating to their efforts to address the energy crisis. The Commission declined in 1975, however, citing potential First Amendment considerations relating to such speech.[53] *Madison Avenue* magazine later declared that neither Congress nor the FTC ultimately took regulatory action against advocacy advertising in the seventies because so much of it was opinion and difficult to conclusively categorize as commercial advertising rather than political speech.[54]

Thus, even though the middle years of the 1970s were relatively stable in terms of the energy situation in the United States, Mobil's relations with government grew more contentious. Just as energy problems would play a dominant role in shaping the course of Carter's presidency later in the 1970s, Mobil's public statements would increasingly link the ongoing crisis to the Administration's mishandling of energy policy. While the Business Roundtable cultivated a cooperative relationship with the White House on many issues, Mobil's relations with Carter would only grow more strained as the seventies proceeded. So too were there marked differences in the advocacy messages that Mobil and the Roundtable each disseminated.

The Roundtable's Version of Advocacy Discourse

The distinctive rhetorical power of Mobil's advocacy discourse of the seventies becomes more evident when considered in contrast to the Roundtable's efforts in that vein from the period. Whereas Mobil made it part of its overall public-relations strategy to be clearly associated with its op-ed messages — regardless how controversial — the Roundtable's advocacy efforts had a stealthier quality. The Roundtable was "remarkably closed-mouth about all its activities,"[55] and this approach seemed to be reflected in practices that made the organization's presence less noticeable in its advocacy activities in mass media. Consumer advocate Ralph Nader wrote that the Roundtable may well have been "the most powerful corporate lobby in Washington," in the seventies and eighties, but it had "a distaste for public controversy and a preference for operating quietly on Capitol Hill."[56]

Especially in comparison to Mobil's advocacy efforts in mass media, such efforts by the Roundtable often seemed designed to avoid publicly identifying the message with the source, or at least to minimize identification. A series of advocacy messages that the organization distributed to thousands of newspapers in 1977, for example, advocated opposition to the proposed Consumer Protection Agency being considered that year by Congress. In the messages, however, the Roundtable was never mentioned in any manner.

The Roundtable's discourse also had a more hit-or-miss quality in terms of constructing an effective dominant frame. It was less successful than was Mobil at selecting "some aspects of a perceived reality and mak[ing] them more salient in a communicating text."[57] The Roundtable's advocacy discourse achieved a clumsier, less compelling vision and a weaker connection with the historical context of the period than did the Mobil editorial-advocacy campaign. In comparison, the Mobil campaign generated a stronger unifying frame or "super theme" that represented the corporate voice in terms of a natural and vital "citizen's" engagement with the power and protection of First Amendment expression. Mobil's construction of this frame was certainly enhanced by the way its public-relations advocacy messages were focused throughout the seventies within the prominent media forum of the *The New York Times* op-ed page. The Roundtable's advocacy efforts in mass media during the period represented a more mixed bag. Those efforts consisted of a flurry of short opinion pieces that targeted the proposed consumer-protection agency, a year-long series of advocacy messages in *The Reader's Digest*, and an accounting audit intended to publicize the cost that complying with government regulation added to corporate expenses.

While the Roundtable's efforts tended to reflect the sort of consensus, opinion-by-committee tone that is conventionally associated with corporate communications, Mobil's messages conveyed its more singular vision of the corporation as politically engaged citizen. Perhaps this was inevitable, given that the Roundtable sought to speak for more than 150 corporations. Mobil, in contrast was speaking only for itself in its *Times* op-ed messages and was a corporation that frequently took maverick positions even within the corporate community. For example, it would break from most of the rest of the petroleum industry in 1979 by advocating a plan for decontrolling oil prices that was virtually the opposite of the plan supported by President Carter and the other oil giants.[58] Even more controversially, the sharply criticized position that Mobil took regarding the proposed 1977 bill barring Americans from participating in the Arab boycott of Israel was not only at odds with the official position taken by the Roundtable but was in fact at odds with legislation that the Roundtable leadership had essentially drafted itself.[59]

The Roundtable's advocacy messages tended to reach back more for ideals from the past than for new themes more closely in tune with the milieu of the 1970s. This was particularly the case in terms of the themes and discourse that contributed to framing "in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation," as Entman characterized the process.[60] The Roundtable's efforts of the seventies were reminiscent of the National Association of Manufacturers' influential "American Way" campaign of the 1930s. That campaign, mounted to counter the New Deal's expanding regulation of business activities, emphasized a linkage between the interests of corporate America and those of ordinary Americans.[61] The Roundtable updated that theme to some extent, particularly in its *Reader's Digest* advocacy series, but did not truly reframe it for the seventies to the same extent that Mobil did in making its advocacy discourse so contemporary to the period.

In this respect, the Roundtable's efforts of the seventies help contrast the way that Mobil forged a dominant framing of its op-ed messages more in tune with the decade in which they first appeared. In doing so, Mobil's editorial-advocacy campaign can be considered to represent an evolution of corporate public-relations efforts to influence public opinion that ranks with that of the "universal service" campaign of American Telephone and Telegraph, which began in 1908 and continued for some three decades. Although the AT&T campaign did emphasize such concepts as "investment democracy" that sought to equate the corporation with its thousands of stockholders,[62] its more powerful and successful theme established an ideology of universal service. Facing the real possibility of government antitrust efforts against it at the beginning of the campaign, AT&T focused its messages on the theme of one telephone system providing reliable and needed service to all Americans and linking all communities. That campaign has been assessed by historians as helping diminish support for breaking up the giant corporation.[63]

The Mobil and Roundtable messages of the seventies were not without commonalities, to be sure. The nature of these generally tended to be manifest not in identical themes, but rather in ways that reflected overlaps and parallels. For example, both Mobil and Roundtable messages maintained a motif of corporations operating strictly for consumers and at the direction of consumers. Therefore, in that view, it was only right for consumers to bear the costs and to support corporate objectives and sensibilities. Certainly Mobil and the Roundtable often shared common policy objectives, such as greater support for reducing government regulation of business activities and for increasing incentives for corporate capital investment.

THE ROUNDTABLE AND THE READER'S DIGEST

The Business Roundtable's most substantial body of advocacy messages during the period under study was published in 1975 and 1976, a time when the economic difficulties of the decade were well entrenched. The "Our Economic System: You Make It Work" series appeared in *The Reader's Digest*, which may not have been considered to be a political forum in the way that the *Times* editorial and op-ed pages were, but which did reach a large audience across the United States. In a sense, this Roundtable series represented something of an evolution on Mobil's use of the Times op-ed spots, taking corporate-advocacy messages consisting only of headline and text and presenting them in a longer form in the pages of a popular mass-media publication. The messages involved an unprecedented degree of editorial participation from *Reader's Digest* — which was one of the corporate members of the Business Roundtable — in producing and promoting the messages. The magazine's editorial department had never been involved in producing an advertising feature before the "You Make It Work" series. Just as Mobil benefited to some degree from having its messages appear regularly on the pages of an established, credible news publication such as the *Times* op-ed pages, the Roundtable too benefited from the association of its messages with *Reader's Digest*.

The "You Make It Work" series made news before it began appearing in *Reader's Digest* in February of 1975. A month before that, the *Times* reported that "a year-long, $1.2 million series of articles on the American economic system editorially processed by the magazine but paid for and controlled by big business" was being prepared at *Reader's Digest*. In this first-time convergence of the editorial and advertising operations at the magazine, the magazine's staff would research and write the advocacy messages. Then "the public information committee of the Roundtable" would review the text of each message and "decide whether or not it should be published." In addition to appearing in the pages of *Reader's Digest* each month, the essays would be reprinted in purchased space in fifty college newspapers, the *Times* said.[64]

When the initial installment of the "You Make It Work" series appeared, the magazine's "Behind the Lines" column that each month presented highlights of the new issue, was devoted solely to the Roundtable series. The introduction was far from neutral and in fact began construction of the series' framing effort by contributing to themes asserting that the interests of business were the interests of individuals and that understanding business would make individuals better Americans. "We're convinced that . . . you'll be a better consumer, worker and citizen," the *Reader's Digest* editors said. "Because your constructive actions will have a positive effect on business and the economy as a whole, all Americans will share in the benefits."[65]

The introduction noted the Business Roundtable's involvement in the series but mentioned nothing of the organization's extensive lobbying of Congress or other political activities. "The Business Roundtable is an organization of 150 outstanding executives from leading U.S. companies who are primarily interested in presenting education and information on the role of U.S. business both here and abroad," it said. "Both the Digest and the Roundtable share a basic belief in keeping our economic system healthy and strong, through an informed, alert citizenry." The introduction also urged readers to take political action in response to the series by contacting their legislators regarding the issues that would be discussed. The magazine said it believed the articles would lead readers to "take a much greater interest in such topics and be able to express more intelligent opinions on them to your family and friends. *And* to your Congressman [emphasis included]."[66]

All the "You Make It Work" advocacy essays were remarkably consistent in length and layout. The text of each was almost exactly 1,250 words in length, with one exception in which the text was roughly 100 words shorter in order to make room for a small chart. Each article in the series featured a small, circular logo containing the series title in the upper left-hand corner of the first page, but had no other drawings, photos, or other illustrations in the three-page layout — which never changed in design from month to month. As with the Mobil op-ed spots in *The New York Times*, these Roundtable essays consisted of little more than headlines and text, and in their formatting generally resembled the editorial articles in the *Digest*. Unlike Mobil's

Times op-ed messages, however, each page of the Roundtable advocacy essays was identified in the top, left- or right-hand corner with the word “Advertisement” in type the same size as the text of the articles. At the end of the text of each article, a boxed note was included announcing that reprints were available from *Reader’s Digest*. Centered at the bottom of the final page of each article, in italic type the same size as the text, was printed: “This message is prepared by the editors of The Reader’s Digest and presented by The Business Roundtable.” Unlike Mobil, however, which routinely referred to itself in its op-ed spots and made clear that the spots represented Mobil positions and opinions, the Roundtable was never referred to within the text of the organization’s *Digest* advocacy essays (other than in the February 1975 “Behind the Lines” introduction).

In terms of themes in the Roundtable messages and those emphasized in the Mobil messages, framing analysis reveals the greatest degrees of commonality in four categories. Those particular themes so consistently and strongly evident in the Mobil messages — the corporation as responsible citizen, as voice of reason, as societally concerned, and as vital democratic participant — resonate in the Roundtable narrative, though not as powerfully. Considering the Roundtable messages’ use of these themes helps highlight their significant contrasts with those of Mobil.

The Corporation as Responsible Citizen

One of the strongest commonalities between the Mobil op-ed campaign and the Roundtable’s “You Make It Work” advocacy messages was found in their similar emphasis on variously expressed themes of the corporation as interacting responsibly with citizens rather than imposing itself upon them. The Roundtable’s construction of this theme emphasized, in fact, that individual consumers as a group were actually the controlling force in the relationship between big business and human beings: “The incentive of profit spurs businesses to supply consumer demands in variety and abundance. . . . There’s no doubt who’s in charge of the American marketplace — the consumer.”[67] Rather than dominating economic activity, the corporation was represented as playing a responsible role in its relations with American citizens by providing them with paychecks and consumer goods. In this depiction, the corporation operated among and for Americans, as emphasized in frequent catchphrases as "you in the end make the decision" and "you the consumer are the reason."[68]

Other "You Make It Work" passages encouraged this understanding of citizens as determining the course of American life through their interaction with the nation's businesses and of how crucial such a process was in maintaining a healthy society. One advocacy essay placed business metaphorically among fellow citizens traveling along "a 'Main Street,' where the aim is the best product that can be made at a price the mass of consumers can afford." There, Americans cast their "votes in the marketplace" and through "these consumer 'ballots' " determine what transpires on this Main Street.[69] The nature of consumer activity in the American system was depicted as guaranteeing freedom and autonomy for all citizens: "This is the subtle blend of freedom and order inherent to the marketplace. . . . The free market monitors an incredibly complex assortment of prices, wages, resources, skills, needs, desires — and yet it leaves you in control [emphasis included]."[70]

In developing this theme, however, the Roundtable advocacy essays also frequently diagnosed the nation's problems in terms of human citizens failing to play their role in the system as responsibly as big business was playing its role. This tendency to blame citizens does not seem likely to have helped strengthen the dominant framing of the corporate citizen. It likely diluted the communicative power of the Roundtable messages to contradict depictions of the corporation as just another fellow citizen with symbolic representations of the corporation as morally superior to human citizens. For example, one of the essays emphasized that American citizens were responsible for contributing their share to the nation's traditionally high rate of productivity. The failure to do so sufficiently in the seventies was depicted by the Roundtable as a crucial factor in the economic crisis the United States was facing in the mid-seventies. "Think about it," the essay challenged. "How well did you type that last report, repair that washing machine, tune up that engine, finish that blueprint?"[71]

Another responsibility that Americans were neglecting in the seventies, according to the Roundtable advocacy essays, was the duty to consider the economic impact of environmental regulations. "Are we prepared to pay higher electric bills when we ask a utility in our area to provide more generating capacity with less harm to our environment?" one essay asked. "Are we committed to reducing auto emissions and increasing auto safety to the extent that it may add as much as $1,000 to the price of our cars? Only when we realize our fundamental financial role in the laws passed and regulations promulgated by our public officials will we be sure to set wise and realistic goals."[72] This theme particularly resonated of Mobil's frequent calls in its op-ed messages for a "balanced" approach to economic development and environmental protection. Additionally, in the Roundtable's depiction of the problem, righting the American economy in the seventies would require citizens to think much more responsibly about capital investment: "To raise the level of capital investment and create jobs, we must also change popular attitudes. Too often when a new factory or power plant is proposed, our response has been 'Don't put it here.' "[73]

The Roundtable essays represented government as behaving even less responsibly. The high inflation rates of the seventies, for example, were attributed to excessive government debt and borrowing: "Government and the average citizen go into debt under different rules. And that's why we are in trouble. We pay all the government's bills, and we bear the burden of those bills government incurs after our tax money has run out."[74] Big business was characterized as being virtually powerless against big government. If corporate wealth was truly influential, one essay asked, how was government able to raise taxes and increase regulation on corporations so freely?[75] Another Roundtable essay presented what it depicted as historical lessons that could be drawn from the growth of American corporations. "A funny thing happened to John Hertz's little car-rental lot in Chicago . . . to Roland H. Macy's 'fancy dry goods' store in New York . . . and to the Hoover people in Ohio," it said. "Their small businesses became big businesses. Why? Because they filled a need. They did the job. People liked the way they did business, and their businesses grew." As was regularly the case in the Mobil advocacy messages, the development of big business was represented as necessary in order to fulfill the demands of a modern consumer society.[76]

What was most significant in the Roundtable's construction of this theme was the way that it shared commonalities with Mobil's representations of the corporation as simply an organic component of the larger spectrum of human activity. Although that concept was expressed in different ways in the respective corporate narratives, the themes were similar in their contributions toward a larger "super theme" or dominant framing. Ultimately, the Roundtable's overall construction of a dominant frame with symbolic meaning was less effective than was Mobil's in its *Times* editorial-advocacy campaign. Representations of the corporation as integrated holistically into society — rather than set apart from or above it — too often were contradicted by depictions of human citizens as inferior in meeting responsibilities to society.

The Corporation as Voice of Reason

Also undermining the construction of a dominant frame in the Roundtable's *Reader's Digest* messages was the presence of a competing theme in which citizens were repeatedly represented as hopelessly confused regarding the way the American economic system and business world works. The essays depicted the ignorance of Americans on profits, for example, as cause for great concern: "While profits are so intimately tied to the lives of all of us, the public concept of them is so distorted as to be hardly a concept at all." The evidence for this conclusion was offered as polls that "indicate that the majority of Americans believe business clears about 28 cents profit on every dollar it earns. The fact is, after taxes the average U.S. company now makes a little less than a nickel profit on each sales dollar."[77] The polls in question were not identified in that instance, an omission that was frequently the case in the "You Make It Work" series. It often failed to provide sources for information or attribution for comments or assertions, and this tendency also contributed to weakening the development of dominant framing in these Roundtable advocacy essays. Information was too often left unconnected with authorities or experts — unlike the Mobil editorial-advocacy campaign, which regularly presented such sources as justification for its arguments.

Asserting that as the voice of reason, "business and industry have tried tirelessly to convey this true profit picture," the essays portrayed Americans as clueless on that subject and many others involving economic and business matters. For example, one Roundtable essay assailed the irrationality of citizens who "buy a house for $28,000, sell it for $40,000, then the next day condemn someone else's 'pursuit of profit.' "[78] Citizens were represented to be similarly irrational on matters related to government social programs, failing to realize that "we must always pay the piper when the dance is over. In our personal lives, this pay-the-piper principle seems so logical. . . . But somehow we seem to abandon this logic when we venture upon 'social goals' — from poverty programs to health care to aid to education."[79] This theme encouraged readers to understand that a more reasonable way to think of proposals such as making automobiles safer or reducing industrial pollution was in terms of money out of their own pocket. "In the final analysis," one essay said, "the bill lands in your lap." The rational remedy for this problem, the Roundtable asserted, was understanding that "in setting each new social goal, we, as the people who ultimately pay, must ask ourselves: Are the benefits worth the costs?"[80] This theme resembled Mobil's frequent call for "economic-impact statements" that were said to determine the true economic costs of environmental and other regulations on businesses.

In contrast to representations of the ways that citizens did not approach such matters logically, big business was depicted as an unheeded source of rational answers. "The facts of performance are so overwhelmingly in its favor," the Roundtable essays contended, that the business community should be granted more influence and subjected to less regulation.[81] "It's time for facts," it declared, "rather than illogical fears about 'big' business."[82] Characterizing individual Americans so frequently as misguided economically, however, again detracted from construction of the dominant frame of the corporation as citizen. Representing the corporation as so consistently superior to human citizens suggested anti-egalitarian images of an entity that was very much *unlike* other citizens rather than similar to them.

The Corporation as Societally Concerned

Some commonalities between the Roundtable's *Reader's Digest* essays and Mobil's *New York Times* op-ed spots also were reflected in the ways each developed a theme of the corporation as deeply concerned with advancing the well-being of society. Again, however, the Roundtable's construction of this theme was not as complete as Mobil's, primarily because of the way in which the latter more compellingly focused upon its asserted concern for those in society who had yet to enjoy prosperity. The Roundtable's thematic effort hinted at such concern, but it was represented more as a general interest in the betterment of society. Emphasis was placed on the substantial contributions that were argued to have been made by business as a demonstration of that concern.

One Roundtable essay presented an account of a child saved after an accidental poisoning through the use of a new medical device, characterized as the typical result of an ongoing drive of American businesses to develop new products for the benefit of society. Those efforts were represented metaphorically as "a magic pool of inventiveness into which we dip for a staggering range of goods and services. . . . And in this cycle of innovation and production lie the paychecks, bank accounts, homes — indeed the hopes and dreams of untold Americans."[83] As in Mobil's discourse on this theme, the Roundtable's essays sought to link business profits and efforts to increase them with the benefits they bring society: "If industry were not profitable, not only would companies soon go out of business . . . but a great variety of social and humanitarian activities would simply go by the board." Corporate profits were depicted as the source of millions of dollars poured into education, the arts, and charity each year.[84]

The quest for profits further benefited society, in these representations, by driving the American businessman to seek "constantly to improve his product."[85] One essay asserted that every dollar of corporate revenue went to serve some socially beneficial purpose. Those purposes were defined as providing wages, salaries, and benefits to employees; supporting social programs through taxes; replacing tools and machinery; providing stockholder dividends; and financing company expansion to create more jobs.[86] Another essay depicted a typical corporate plant with 1,000 employees as "supporting 3,000 other workers, from bus drivers to doctors."[87]

To some extent, the constructions of this theme in the Roundtable essays were less advocacy discourse than they were image advertising, a different type of public-relations effort in which the goal is general goodwill rather than influencing political and social issues. Mobil's use of the theme, for example, depicted corporate concern for society's have-nots as justification for supporting pro-growth policies to expand the petroleum, coal, and nuclear industries, rather than emphasizing conservation efforts. The same theme for the Roundtable generally went no farther than representing the corporation in ways that associated it with good citizenship.

The Corporation as Vital Democratic Participant

With Mobil, no theme was more significant or more revealing than its representation of the corporation as vital democratic participant. In the Roundtable's discourse, only variations of this theme were present, not the sort of fully developed articulation that Mobil achieved. To some extent, that was what might be expected, given that the oil company advanced and focused its narrative over the course of a decade. Ultimately, Mobil established a dominant frame that was symbolically compelling in its constructed vision of the corporation as citizen, politically engaged through expression of free speech and other rights and duties of American citizenship. What the Roundtable offered in its advocacy essays was not so much a vision that specifically and repeatedly depicted a vital role for the corporation in democratic processes. Rather, its discourse was characterized by more generalized assertions of the way that American democracy should function, had gone awry in the seventies, and could be righted. The greatest commonalities between the Mobil and Roundtable narratives were in their themes depicting government as a threat to business and thus a threat to individual citizens. These corporate representations of American democracy encouraged an understanding of business interests and citizen interests as essentially the same.

The Roundtable's development of this theme centered upon the marketplace as a more effective clearinghouse for social concerns, such as consumer protection, than was government. "Consumer pressure is a healthy affirmation of the market system . . . the same pressure that has always motivated the conscientious businessman — competition,"[88] one essay asserted. In this representation, the interests of American society were best realized through competition of business interests, not through government programs. "No government, no single planning entity, could possibly keep track of, let alone provide the material, human and technological resources to fill so many needs and solve so many problems," the Roundtable said.[89] The language in these advocacy essays regularly characterized government as ineffective and overpriced.

The soaring cost of living in the mid-seventies was depicted as a product of government taxes and debt.[90]

In defining the problem of government gone awry in the 1970s, the essays diagnosed the cause to be that expensive decisions were being made too far away from American citizens for them to effectively participate. "When it comes to social goals, we may not be fully aware of the facts . . . [but] whether these decisions will cost us money has already been immutably decided," said the Roundtable. The results of all this were depicted to be unpopular regulation that wasted taxpayers' money.[91] Rather than being allowed to exercise the freedoms the marketplace was said to offer Americans, the essays maintained that citizens were being forced to pay for regulations that they did not want. Environmental regulations on corporations, for example, were represented as working against the interests of individual consumers and taxpayers, while investment incentives and other special tax provisions for corporations were depicted to be working for those interests.[92] Such catchphrases as "It's time for some tough decisions in Washington," "Decisions that will not be made unless citizens demand them," and "It's time to face up to the question" were utilized as condensing symbols for the remedy that the Roundtable promoted.[93] That remedy, broadly speaking, reflected an encouraged understanding that it was in citizens' own interest to demand less regulation of business.

Thus, although commonalities between the Mobil and Roundtable advocacy messages of the seventies often were reflected through overlaps and parallels, the two shared corollary views of government as a problem that individual Americans should assist corporate citizens in addressing. Corporate citizens were represented to be responsible, concerned partners with human citizens as well as fellow victims of government intrusion. Overall, Mobil's thematic emphasis generally tended to be maintained more effectively and consistently. To some extent, that contrast derived from the different forms and styles of advocacy discourse that Mobil and the Roundtable practiced. In that respect, the narratives represented by these variant forms of corporate discourse presented some apples-and-oranges comparison problems. Mobil's advocacy efforts were consistent throughout the decade, while the Roundtable's were hardly so. The Roundtable did no further advocacy campaigns as substantial as the "You Make It Work" series. The series may well have been more valuable to *Reader's Digest*, which received $1.2 million from the Roundtable for publishing the series, during which time the magazine was promoting its pages to corporate public-relations executives as delivering "the mass readership and favorable editorial climate business needs."[94] Apparently, the only attention the series received in professional publications was its inclusion in a *Public Relations Journal* article that declared "economic education" campaigns like the Roundtable's to be conceptually misguided in most cases: "Of all the earth's peoples, Americans have amply demonstrated that most understand profits. To suggest otherwise is to fly in the face of our economic history."[95]

A portion of Mobil's advocacy discourse that was perhaps closest in form and theme to the Roundtable's "You Make It Work" campaign was a series that Mobil produced for its *Times* op-ed spots during almost the same time period. The whole of Mobil advocacy discourse for the mid-seventies reflected much broader concerns than did the Roundtable's. In a 1976 segment of that larger narrative, however, Mobil virtually presented a case study in how it would have handled the "You Make It Work" series.

'YOU MAKE IT WORK' — MOBIL STYLE

Mobil's *New York Times* op-ed messages had at times suggested that better education was needed on how the American economy worked. "We teach young people everything from Latin grammar to Japanese flower-arranging, but virtually nothing about our own economic system." said a 1973 spot. "Those of us in business have also done a poor job of conveying the economic facts of life to people."[96] Mobil made that concern the central theme of its 1976 "Toward a Healthier Economic Climate" series, in much the same way that the Roundtable had done in its "You Make It Work" essays. Like the Roundtable, Mobil urged citizens who were worried about the economic difficulties of the mid-seventies to learn more about how the system worked and to take action to restore it to its proper operation.

Mobil's "Toward a Healthier Economic Climate" series began in mid-April of 1976, only three months after the end of the Roundtable essays in *Reader's Digest*. The Mobil series continued in the *Times* op-ed position for six consecutive Thursdays and emphasized the themes of social concern, responsible citizenship, rationality, and democratic participation. The themes were often represented in terms similar to those of the Roundtable advocacy essays. Especially early in the series, Mobil emphasized concern for a greater understanding on economic matters, though in language that sought more overtly than the Roundtable essays had to avoid the appearance of insulting readers: "We don't mean to offend you, but we feel keenly that there is a desperate need for people to understand better the economic system that makes our country click. . . . This is not to say that those of us in industry are all that smart either; we make mistakes, too. But we are now deeply concerned, as the handwriting on the wall becomes clearer by the day."[97]

Within this group of advocacy messages, Mobil like the Roundtable depicted its corporate position as one serving the interests of individuals. "We'd like to toss out some ideas and some facts . . . and ask you to think about them — in your own self-interest," it said.[98] Mobil stressed its concerns in terms of what a continued lack of economic understanding could mean for society's have-nots: "Economic misunderstanding threatens to diminish the opportunity for social progress and better living standards for those still enduring second-class citizenship of one sort or another."[99] For example, one op-ed message warned, programs such as Social Security, Medicare, Aid to Dependent Children, child nutrition and school lunches, housing for the elderly, and others could be endangered if more Americans did not become informed on key economic issues: "If we as a people unduly inhibit economic growth in the private sector, the United States will not long be able to afford such programs on anything like the present scale."[100]

Therefore, another essay asserted, "the question now before the nation is how to get people back to work in productive jobs and how to keep creating new jobs so we can get back to opening up greater opportunities for women, for blacks and other minorities, and for young people from all backgrounds."[101] Mobil invoked images of social catastrophe that could otherwise result: "If it becomes clear to everyone that the economic pie isn't going to get appreciably bigger, every group will begin fighting for a larger piece. . . . Rising social strife can create a backlash against efforts toward cleaner air and water and toward the funding of health services and education. . . . Economic growth is the last, best hope for the poor and for all the rest of us."[102]

Thus, the "Toward a Healthier Economic Climate" series represented the need for greater corporate profits as linked closely to social well-being in general and to the economic difficulties of the seventies in particular. It offered as lessons to be heeded assertions that living standards in Japan and the major European industrialized nations had risen more rapidly than in the United States because American corporations were not making enough money to keep up with other nations on new plants and equipment. "People's misconceptions of the size and role of profits can do real harm to our economy and thus to themselves," Mobil said.[103] Government was represented as the source of the problem because of its "heavy taxation of the returns from capital."[104] As in the Roundtable advocacy essays and in Mobil's broader editorial-advocacy campaign, much discourse was devoted to a prominent motif in which the interests of Americans were said to be adversely affected by what was depicted as government interference with the interests of big business. Government was simply consuming so much of the nation's resources, Mobil said, that there was not sufficient capital investment available for corporations to expand and create more jobs. "Big government, not big business, is this country's problem," said one op-ed spot.[105]

Another op-ed spot drew upon what it offered as the historical lessons to be learned from the presidencies of Franklin Roosevelt and John Kennedy. In Mobil's reading of American history, both presidents in their own way focused their policies on stimulating business activity: "Heavy stress on consumption had been appropriate in FDR's time, but by 1961 the time had come for added stress on investment in new plants and equipment."[106] In perhaps the strongest statement of commonality between this Mobil series and the Roundtable advocacy essays, Mobil provided an articulation of the marketplace as the heart of American democracy: "Private business serves the mass market . . . trying to give the people as a whole what they want or need. Oddly enough, at the present juncture of history this puts business in the role of the great democratizer, in contrast to [government] elitists who tend to want to decide unilaterally what is good for the people."[107]

About the same time that the Roundtable and Mobil were publishing the above group of free-market messages, *The New York Times* questioned whether the severe economic problems the nation was facing might indeed be a signal that more government intervention was needed, rather than less. The *Times* asked on its editorial page why planning was considered good for business but bad for the U.S.

economy. Acknowledging the benefits that market forces can play in many situations, the newspaper editorialized that given the economic woes and their link with the unprecedented energy crisis, "there is a concomitant need for national planning in order to match scarce resources with consumption" more fairly and effectively.[108] The *Times* called it a victory for the public interest when Congress passed legislation that President Gerald Ford signed in late 1975 mandating greater fuel efficiency for new automobiles, energy-efficiency labeling for new consumer appliances, and the right of the federal government to audit the books of major energy producers and suppliers.[109] R. Stephen Berry, a University of Chicago chemistry professor, detailed in a *Times* op-ed piece the next year how government could produce significant national energy savings by requiring a series of relatively minor changes in manufacturing and recycling processes.[110]

Mobil's "Toward a Healthier Economic Climate" mini-campaign thus resembled the Roundtable's most substantial body of advocacy discourse of the seventies, the *Reader's Digest* "You Make It Work" series, in many ways. Both particularly encouraged an understanding of the nation's economic difficulties of the period as being a product of bad government rather than involving any other causes. That theme would become even more pronounced in Mobil's advocacy discourse as the decade proceeded.

MOBIL IN BROADER MID-SEVENTIES DISCOURSE

Mobil declared in the mid-seventies that it "sought to wrestle with issues of public policy by trying to ascertain where the interests of the public lie."[111] During this period, its *New York Times* advocacy spots would continue to evolve. While Mobil's significant themes were maintained and in many ways sharpened in its editorial-advocacy campaign during the mid-seventies, it varied the manner in which it presented them within the same basic scheme. During this period, Mobil increasingly equated the interests of the corporation with those of human individuals in seeking to promote its key themes. The company's anti-government discourse grew more intense, and it argued that more corporations should be adding their voices to the marketplace of ideas.

Mobil's long-term strategy of publishing its op-ed spots on a weekly basis from 1972 forward may have in itself increased their public-relations effectiveness. Sethi in his mid-seventies research on corporate advocacy messages, including Mobil's, found that their effect "builds over time . . . [and] their cumulative effect can be considerable." By constantly repeating such advocacy communications "over a long period of time, a corporation should be able to build a positive attitude in the minds of readers toward its message, regardless of the inherent accuracy or objectivity of the message or its information content." Sethi also found "reasonable grounds for concern" that a large number of corporations pursuing advocacy advertising campaigns over a period of time could "overwhelm the information mix available to the public and thereby squeeze out or sharply reduce the expression of alternative viewpoints on important issues affecting society."[112]

Fortune magazine said that "Mobil deploys every weapon in the p.r. armory, but its views come across clearest" in the *Times* op-ed spots. "Few organizations of any kind can rival Mobil in the artfulness and sophistication with which it presses its opinion."[113] Even though "an increasing number of [Mobil's] op-ed ads treat subjects broader than the energy crisis," a key to its public-relations program's success in the mid-seventies was assessed to be the way it fed "a great hunger for information about the oil crisis" among the public.[114] *Advertising Age* said in 1975 that by "responding regularly to issues of the day . . . Mobil has built an audience which it can reach when a problem of vital concern to Mobil must be addressed."[115] In a mid-seventies survey of corporate communications efforts, Mobil was said to have become "the Number 1 corporate practitioner of the advocacy technique in advertising."[116] A survey of American newspapers in 1975 found that 80 percent were by then publishing daily op-ed pages, which were declared to represent "a new vista for the enterprising public relations practitioner."[117] Mobil's op-ed campaign was criticized, however, by Leo Greenland, chief executive officer of the Smith/Greenland advertising agency, who argued that Mobil actually demonstrated no more than a superficial concern for America's social problems. Mobil's motives were also questioned by Donald Zuckert, an executive with the Ted Bates and Company advertising agency, who called the Mobil op-ed spots "self-serving in the worst way."[118]

The Corporation as Responsible Citizen

Mobil's most consistent and forcefully articulated themes in its mid-seventies' *Times* op-ed spots continued to construct representations of the corporation as responsible citizen, as voice of reason, as societally concerned, as expert, and as vital democratic participant. In the first of those themes, the corporation as represented by Mobil routinely went to great lengths to responsibly perform its role in society, including especially the spending of unimaginable sums of money to do so. This would often be stated in various ways to help advance Mobil's ongoing arguments that oil companies were justified in receiving higher prices for their products in order to "do the job people are depending on them to do." Higher energy prices — and corporate profits in general — were characterized as necessary to enhance capital formation. In the image that Mobil put forth, a society without sufficient capital formation "would not produce a flashlight or a bicycle; it wouldn't even bring forth a book or a pair of eyeglasses. . . . To create capital goods, money that otherwise would be spent on immediate consumption has to be invested for the longer term."[119] As depicted by the company's op-ed spots, the only alternative to higher energy prices for the oil companies would be dwindling supplies of energy and an end to economic growth.[120] Because taking that path would be irresponsible, Mobil said, "We must go on spending big in order to find the new reserves that will keep us in business and keep you supplied with fuel."[121]

Drawing lessons from American history and linking them with energy issues was a regular practice of Mobil in its op-ed messages. For example, it frequently associated its corporate interests with those of the American founders. One such Mobil op-ed spot titled "Sam Adams: A Radical for Today" sparked an exchange of letters in the *Times* between Herbert Schmertz, the Mobil vice president for public affairs, and historian Eric Foner over what the position of American revolutionary Sam Adams might have been on steep oil-industry profits of the 1970s. The op-ed message had compared oil companies to American revolutionaries, characterizing both as determined to free Americans from government regulation and declaring that if Adams were "part of the U.S. petroleum industry, he'd still be a radical looking for a free market. And there would still be a reactionary government fighting him every step of the way."[122] In Foner's words, the oil company was asking readers to believe "that were Sam Adams alive today he would join Mobil in seeking an end to price regulations and the establishment of a 'free market' in oil. . . . [But] if Sam Adams believed in anything, it was that republican government required of its citizens a willingness to sacrifice private interests and ambitions to the good of the entire society. . . . During the American Revolution, countless communities established popular committees to regulate prices and profits. Adams felt such activities were 'wise and salutary.' "[123] Schmertz's response a few days later emphasized Mobil's broader motif that conflated corporate liberty with individual liberty and corporate interests with American interests. "Obviously, no one can say precisely what Sam Adams would favor if he were alive today," Schmertz wrote. "But . . . when it came to the crunch, Adams was for *freedom* [emphasis included]. That is precisely the context in which Mobil . . . suggested him as a 'radical for today.' Economic freedom in the petroleum industry is endangered."[124]

Mobil often drew upon icons from the nation's Revolution in its advocacy discourse in order to invoke lessons from history. Corporate interests were again represented in terms of values held by American founders in an op-ed spot published during the week of Independence Day in 1975. It consisted entirely of what was presented as the text of a speech to be given on the Fourth of July. "Back in 1776, our forefathers brought forth on this continent a new nation — not only politically free but 100 percent independent of any foreign power for energy supply," it began. A review of American history, as depicted by Mobil, asserted that the nation had enjoyed a century or so of petroleum plenty before developing a dependency on foreign oil that culminated in the 1970s energy crisis. Freedom from that dependence, the text continued, would require increased drilling for offshore oil and natural gas, and ending "unnecessary controls" on the petroleum industry so that it could attract "the huge capital needed for the task at hand." The "speech" concluded that the remedy would be for Americans to "rededicate America to regaining energy independence. . . . The alternative could be the end of a growing, expanding American economy. That's a price that would have outraged our founding fathers."[125]

In other op-ed messages, Mobil depicted various ways that it was operating responsibly, such as researching methods to make electric-generating plants burn coal with less pollution, to reduce oil refineries' energy consumption, and to convert coal into liquid fuels and methanol into gasoline.[126] The company also sought to represent its drilling activities as examples of its responsible conduct. The expansion of domestic offshore oil exploration generated considerable opposition because of environmental concerns throughout the seventies. When it drilled offshore, however, Mobil said that there was virtually no environmental risk and that a matching-grant formula funded outdoor recreational and conservation projects across the nation. "In other words, U.S. offshore oil and gas wells are improving the quality of life in our cities, towns and countryside," that op-ed spot asserted.[127] *Times* editorials often countered Mobil's images of bountiful oil supplies that could be extracted benignly from American offshore fields if not for unwarranted environmental opposition. One *Times* editorial in the mid-seventies contended that offshore oil reserves hardly offered the sort of panacea they were represented to be by Mobil because they would take many years to develop and were capable of providing no more than 8 percent of the nation's petroleum needs. Given that offshore reserves could offer no relief for the immediate energy crisis, the newspaper said, they should be opened to exploration by the oil companies only slowly and with exhaustive consideration of environmental impact and safeguards.[128] After the oil tanker Argo Merchant ran aground off the New England coast and created what was then the largest offshore oil spill in American history in 1976, the *Times* said it hoped the lessons were not "lost on those who have the responsibility of deciding whether or not offshore oil is worth the possible price."[129]

The Corporation as Voice of Reason

The Mobil op-eds in the *Times* of this period also continued to advance a theme of the corporation as not only responsible but eminently reasonable. Catchphrases such as "arguing the merits in a reasoned way"[130] were often used to characterize the oil company's advocacy discourse. One way that its concept of reason was commonly expressed was through representations of its positions as ones of "balance." For example, the remedy that Mobil asserted time and again for America's economic and energy problems was for the federal government to adopt a national energy policy that would "establish a balance among our energy needs, our living standards, and our need for environmental safeguards."[131] Mobil also often used what it depicted as a simple syllogistic argument to explain the basic reasoning underlying its position that a "balanced" policy would emphasize greatly expanded efforts to discover and develop new reserves of oil. The "basic facts," according Mobil's diagnosis of the problem, were that the United States consumed millions of barrels of oil each day and that consumption would inevitably grow, while the amount of oil produced domestically continued to decline. Therefore, Mobil concluded, "If the United States doesn't find more oil, the gap between production and consumption will double in 10 years. . . . Simple arithmetic."[132] John Oakes, editorial-page editor at the *Times*, argued in a 1976 op-ed piece that environmental efforts were hardly unreasonable but in fact represented a pragmatic conviction that humans could not survive without reaching "an accommodation with [their] natural surroundings." Oakes cited evidence that spending on environmental protection actually added jobs to the American economy.[133]

Mobil argued that the British and Norwegians were models of rational thinking on energy policy because they were actively developing oil production from the North Sea. In Mobil's view, such efforts represented the reasoned sort of balancing of environmental concerns against energy needs that was needed: "We think most people will agree that a rational program providing for reasonable compromises will serve the nation best — from all standpoints: energy, the environment, and the economy."[134] With greater frequency as the seventies proceeded, Mobil asserted that government policy on energy was being influenced too much by political maneuvering and not enough by what the oil company characterized as the good sense of the American people. "There is mounting evidence that the American people are going to demand the sort of rational compromise we are talking about. The people are fed up with energy politics and are ready to bite the bullet," said a 1975 Mobil op-ed message.[135] The *Times* contended the same year, however, that the failure of politicians to produce a national energy policy was actually due to their fear that voters were not at all ready to be reasonable about biting any bullet. A majority of the nation's governors and members of Congress believed strong measures were needed to address the situation, according to the newspaper, but they lacked the will to face what it could cost them politically with unhappy motorists.[136]

Mobil's op-ed spots utilized metaphor heavily in the long-running "A Fable for Now" series that was launched in 1976. With titles such as "Malice in Wonderland" and "The Emperor's New Clause,"[137] the "fables" consisted of rather lengthy and involved tales that always ended with a "moral" advancing the policy positions of Mobil. Each took an issue concerning energy or business policy and reworked it into a supposed fable that used fictional characters to metaphorically demonstrate how reasonable Mobil's position was and how unreasonable other positions were. One told the story of a mouse that decided to "break up" an elephant because it was too large and dominated the resources of the jungle — until a tree fell on the mouse's tail, and the elephant was the only animal large enough to save the mouse. The moral: "Nobody should assume that BIG spells BAD. Though some in Congress would break up some oil companies as too big, the job of fueling America requires bigness."[138] Another concluded with the moral, "Even a wily wolf can behave like a dumb bunny if he lets exaggerated fears muddle his thinking. Which brings to mind the ongoing controversy over the development of America's offshore oil and gas. . . . As the issue is debated and redebated, U.S. dependence on foreign oil grows, and grows. And that's no fable."[139]

The Corporation as Societally Concerned

The theme of corporate societal concern continued but was somewhat less prominent in Mobil's op-ed messages of the mid-seventies. It was advanced mainly as Mobil argued against Jimmy Carter's proposed energy program because it did not embrace all of the company's priorities. In so doing, the company depicted its opposition in terms of concern for society's have-nots. Its op-ed messages represented the Carter plan as one that would cost jobs and hurt poor people: "What the Administration proposes is a series of energy taxes to discourage consumption. . . . People will be paying more for much of what they buy, from housing to groceries, but they won't be getting any additional domestic energy for their money. . . . Another word for high prices is inflation, and that inflation hits the poor and people on fixed incomes the hardest."[140] In other op-ed spots, that depiction was broadened to link Carter's proposed energy plan to financial pain for both have-nots and haves by characterizing the plan as a waste of everyone's money. "We submit that the extra burdens placed on the American people should help provide them with relief down the road — in the form of developing all of America's energy potential, including its offshore oil and gas, coal reserves, and nuclear capability. The people should receive something besides belt tightening for their money."[141]

Among those who articulated the case for raising taxes on oil in the mid-seventies in the *Times* were Columbia University economics professors Albert Gailord Hart and Charles Issawi. They wrote that a heavy tax on gasoline and other petroleum products would provide incentives for conservation efforts such as use of mass transportation and purchase of more economical automobiles, thus reducing domestic oil consumption. Hart and Issawi said that hardships on low-income Americans could be eased by cutting other taxes and that the oil companies could learn to live with such a policy because they were already doing so profitably in Europe.[142] The *Times* editorialized in favor of higher taxes on gasoline, with refunds to lower-income Americans and a percentage of the tax revenue spent to develop better mass-transit systems.[143]

The Corporation as Expert

Mobil's practice of associating the positions it advocated with sources who were represented as experts and authorities in its op-ed messages was demonstrated most prominently during the debate in the U.S. Senate on the 1976 divestiture bill. That bill would have required the largest oil companies to confine their operations to only one segment of the business, such as production, refining/marketing, or transportation, while divesting themselves of other operations. One Mobil op-ed spot said "America's most highly regarded economists, investment bankers and academicians" were "arrayed" against the proposal. It then excerpted comments from individuals who had testified before Congress against the divestiture bill, including M.A. Adelmah, professor of economics at the Massachusetts Institute of Technology; Paul Frankel, a British petroleum economist; Senator Adlai Stevenson of Illinois; representatives for smaller oil companies; Assistant

Secretary of the Treasury Gerald L. Parsky; Deputy Assistant Secretary of Defense Roger E. Shields; Department of Agriculture economist Don Paarlberg; Deputy Assistant Secretary of State Julius L. Katz; and UCLA economics professor Neil H. Jacoby.[144]

Shortly after that, another Mobil op-ed message contended that a sixteen-month study by George Washington University's Energy Policy Research Project, directed by Professor of Economics William A. Johnson, "found that the oil industry was indeed competitive and that no special legislation was needed to break it up." Mobil said the summary of the 115-page study concluded that "there would seem to be little reason for special regulations being imposed on the oil industry other than normal anti-trust laws generally applicable to all industries. The oil industry is one of the least concentrated in the United States. There is no evidence that the major oil companies have expanded their share of the marketplace at the expense of independents."[145] Mobil even invoked the *Times* during the divestiture debate: One of the company's 1976 op-ed spots consisted of two editorials from the newspaper that opposed the divestiture bill.[146]

The Corporation as Vital Democratic Participant

In the mid-seventies, Mobil began calling for more corporations to speak out, to recognize what it considered to be a duty to compete not only in the economic marketplace but also in the political marketplace: "For a long time now, we've been raising our voice in ads like this one," said one op-ed spot. "The trouble is, not enough other businesses follow suit."[147] Increasingly equating the interests of the corporation with the interests of the people in its op-ed messages, Mobil also called more often for readers to contact their legislators. When government threatened the rights of the corporation — which was how Mobil invariably characterized regulatory efforts — it was threatening the rights of individuals. "When the bill comes before the full Senate, we sincerely hope that passion and politicking will yield to reason," Mobil said after the 1976 divestiture bill made it out of committee. "If some politicians won't listen to reason, perhaps they'll listen to the people. What's needed now is a public outcry. Isn't it time you spoke up? Your future may depend on it."[148] A couple of weeks later, Mobil said, "We trust that the American public will see through the hollow rhetoric of those who would break up the oil companies. . . . Write your Senator — before it is too late."[149] On the issue of divestiture, the *Times* took a position similar to Mobil's, arguing that such action would likely cost consumers more than it benefited them. The newspaper said that the oil industry was less concentrated than many other American industries and that breaking up the oil companies would probably only strengthen market domination by OPEC.[150] At the same time, however, the *Times* called for stepped-up antitrust efforts against oil producers involved in price-fixing or collusion.[151]

Mobil regularly replied to criticisms of its motives for seeking to influence public debate with depictions of what it declared to be the company's commitment to fostering democratic debate. In 1979, President Carter said the real reason for Mobil's outspoken opposition to his plan to decontrol oil prices was its desire to kill his proposed windfall-profits tax on the oil companies. Mobil responded with an op-ed spot that further criticized Carter's plan and concluded: "As we see it, our responsibility is to continue to speak out on the issues."[152] After Mobil's op-ed messages opposing the proposed mid-seventies bill barring Americans from participating in the Arab boycott of Israel drew sharp criticism, it contended that it sought only "free and open debate . . . on the bill, . . . the right of the American people, all the people, to debate freely and openly any issue that could have a pronounced effect upon their lives."[153] Mobil's Schmertz and Congressman Benjamin Rosenthal of New York, who had been particularly critical of the company's efforts to block the bill, published letters to the editor in the *Times* on the subject in late 1976. Schmertz, taking the lead as Mobil's spokesperson on controversial issues as he often did, said that the bill could prevent American oil companies from importing oil out of Arab countries and in turn cripple American industries.[154] Rosenthal said that Mobil was using scare tactics to sway the debate, because nothing in the bill would prevent American oil companies from buying oil from Arab nations.[155] A later Mobil op-ed message on the subject asserted: "Our only purpose in the ads and letters we have written has been to bring to the American people our interpretation of this legislation. If we are wrong, we would be happy to find that out. If we are correct, a useful service will have been performed."[156]

Richard J. Barnet and Ronald E. Muller, authors of a mid-seventies book on multinational corporations, argued in a *Times* op-ed column that giant companies like Mobil actually undermined democracy rather than contributing as legitimate participants. With annual sales that exceeded the national incomes of most countries, the multinationals were "dedicated to centralized planning on a world-scale" that prioritized profit over social impact, said the authors, a think-tank director and economics professor, respectively.[157]

Thus, Mobil continued to utilize multiple thematic approaches in the mid-seventies to contribute to the dominant framing of its advocacy discourse. An increasingly consonant message among those themes was the conflating of the interests of the business corporation and the human citizen as essentially the same. That message, though conveyed in a variety of ways, ultimately came back to the maxim that for government to interfere with the rights and freedoms of oil corporations — or, in effect, of any corporation — through regulatory action was to interfere with the rights and freedoms of the American people. As the decade of the seventies moved closer to its end, the nation was about to see pro-business, anti-government forces win huge victories both in the courts and at the ballot box.

This page intentionally left blank

CHAPTER FOUR

1978-80 Corporate Speech Heads to Court

It was in the final years of the decade of the seventies that the most dramatic developments related to reasserting the voice of big business in the marketplace of ideas unfolded. Mobil's editorial-advocacy campaign intensified to the point of calling for an American president to be replaced — essentially because he would not embrace all the corporation's recommendations on energy policy. The energy crisis came roaring back with a vengeance after the relative calm of the mid-seventies, wreaking havoc on the economy and becoming a crucial factor in the course of American politics at the turn of the decade. Most significantly for the role of big business in American democracy, the Supreme Court handed down three landmark decisions that gave corporations powerful free-speech rights. The rulings meant that at the end of the seventies, corporate speech that sought to influence political and social outcomes had won essentially the same constitutional protection as speech by human individuals.

During the latter years of the decade, sharp energy price hikes and inflation returned as issues of greater urgency, and Mobil enthusiastically evolved into even more of a lightning rod for controversy than it had been throughout the earlier seventies. Over the course of 1979 and 1980, OPEC raised the price of crude oil by almost 150 percent.[1] *Business Week* reported in 1979 that the period of relative oil-price stability in the mid-seventies appeared to "have been the eye of the storm."[2] The *Times* in its annual assessment of the national economic picture early in 1979 declared inflation had undergone "a sea-change in the United States: it changed from being regarded as a tolerable to an intolerable problem."[3] *The New Republic* worried that ongoing inflation stresses were leading Americans into "vigilante methods" of combating it through group demands by corporations, unions, and other organizations that disregarded the common good. "Each new wave of inflation," it warned, "seems to erode the authority of national economic policy and strengthen the power of the independent fiefdoms."[4] A professor at the Harvard Business School called for the United States and its allies to invade the Middle East and take over the oil fields and production facilities there.[5]

As oil prices climbed upward, the earnings of the oil companies began grabbing more headlines again. For 1979 alone, Mobil's profits topped $2 billion, double what they had been in 1974, when the company first topped the $1 billion mark.[6] Mobil would make headlines in a variety of ways in the late seventies, including its response to what it viewed as distorted reporting on its earnings by the major television networks. In 1979, for example, Mobil took out a full-page ad in the *Times* to document in great detail its criticism of the way that *CBS News* had reported Mobil's third-quarter earnings. CBS had used the latest earnings from Mobil as part of a more expansive report that said oil companies were manipulating their earnings reports by selling oil from one subsidiary to another in order to disguise how large the companies' profits actually were during the energy crisis. Mobil denied the accusation and declared that the network had "prefabricated the news" by plugging the new Mobil numbers into an already prepared report.[7] When Mobil announced profits for 1979 had leaped almost 78 percent, it argued that its declared return on capital of 16.3 percent was actually only a little above its average return for the late seventies of slightly more than 10 percent, by that measure.[8] Mobil began using that measure of earnings in television commercials that maintained its profits were actually less than those of the major television networks. The networks refused to let their company-owned stations run the ads, and NBC countered that in actual dollars (rather than return on capital), Mobil earned more even after taxes in 1978 than all three networks combined had earned before taxes.[9]

Mobil also made some major reorganization moves in the second half of the seventies. It changed its name from the Mobil Oil Corporation to the Mobil Corporation in 1976, becoming a Delaware-chartered holding company with Mobil Oil one of its subsidiaries — along with recently acquired Montgomery Ward, the Container Corporation of America, and other corporate interests.[10] By 1977, about 20 percent of Mobil's income was produced from business operations other than oil.[11] A Mobil op-ed spot said the "right diet of investments" had made it "a balanced, diversified energy company."[12] Critics pointed out that by spending large sums to acquire those investments, Mobil was contradicting its own claims that it was investing its soaring profits on exploration and development of new petroleum sources.[13] Senator Thomas McIntyre of New Hampshire called Mobil's moves into other industries "irresponsibility at its worst."[14] *Business Week*, noting that Mobil was the clear leader in non-oil acquisitions in the seventies, said that while such "moves outside of oil may be inconsistent with the [oil] companies' public statements on price controls and government regulations, they make a lot of financial sense."[15]

In 1978, Mobil began construction on new headquarters that would for the first time move the company out of New York City and relocate it in the Washington suburb of Falls Church, Virginia. "It was the realization that more of our problems had to do with Washington that brought us here," Chairman Rawleigh Warner said at the groundbreaking.[16] While Mobil moved its physical presence closer to the nation's capital, its advocacy messages continued to distance the corporation from government, frequently portraying the government as crusading to undermine capitalism. In response to Mobil's assertions of capitalism supposedly under siege by government, *The New Republic* countered that "it is not an argument over the capitalistic system; it is an argument over whether big companies like you [Mobil], which have come to have enormous power, will exercise the power responsibly. The public, through government, is bound to play a part in this."[17]

In the landmark corporate-speech cases of the latter years of the decade, the government essentially argued that corporations would not exercise the power of constitutionally protected speech responsibly. Beginning early in 1978, however, government would fail in its efforts to successfully argue that assertion before the Supreme Court in all the corporate-speech cases of the period. Those cases represent the cornerstones of the body of corporate-speech case law that has developed over roughly the past quarter-century, and they attracted a great deal of media attention as the decade of the seventies began to fade into the eighties.

The framing of corporate-advocacy messages and what related framing may have taken place in the minds of the Supreme Court justices in the corporate-speech decisions cannot be interpreted as causally linked. What is clear, however, is that the narratives represented by Mobil's corporate-advocacy discourse of the seventies and the legal discourse of the early corporate-speech cases are not incompatible with each other. Historically, the period stands now as a time when Mobil's corporate-citizen reinterpretation of democratic participation can be seen to significantly parallel the Supreme Court's broad thinking on the subject of American democracy. Mobil successfully linked its seventies advocacy discourse to a powerful idea at the very moment in history when that idea was reaching critical mass in constitutional law.

FIRST NATIONAL BANK OF BOSTON V. BELLOTTI

While such prominent voices as Mobil were more forcefully asserting the role of the corporation in the marketplace of ideas earlier in the decade, legal debates on the role of the corporation in democratic processes were working their way through the courts. In three Supreme Court decisions that were handed down in 1978 and 1980, the pronouncements on corporate speech would redefine the relationship between government and corporation in America, and by extension, the relationship between corporation and society. Those consequential developments were the product of arguments made to and by the Supreme Court on the meaning of the First Amendment in respect to corporate political activity.

In each of the three cases, substantial arguments were asserted in the form of the justices' opinions, the briefs articulating the respective positions and assertions of the government and corporate interests, and the amicus curiae (friend-of-the-court) briefs submitted by other parties with an interest in the outcome. All three cases involved litigation between state governments and corporations located in those states. The issues at stake were significant enough, however, to motivate corporate interests from beyond the borders of the respective states involved to weigh in through the arguments made in their amicus curiae briefs.

The decisions in the landmark corporate-speech cases began with the *First National Bank of Boston v. Bellotti* decision in the spring of 1978. When *Bellotti* reached the U.S. Supreme Court, it culminated a sixteen-year struggle between the state and corporate interests in Massachusetts. Four times during that period, the Massachusetts legislature had approved referendum issues to amend the state's constitution so as to remove a ban on graduated income-tax rates. The state had banned corporate spending to influence votes on referendum questions in 1907, with various amendments since then adding and revising a proviso that allowed such spending by corporate interests only if they were "materially" affected by a referendum issue. An ongoing legal battle over whether corporate interests — which were opposed to a graduated income tax — could spend to influence voters on that referendum issue had been waged in Massachusetts courts since the early sixties, with corporate interests receiving favorable decisions until the mid-seventies.[18]

By the time a 1976 referendum to permit the graduated income-tax rates made the ballot, the Massachusetts legislature had tightened the statute on corporate spending to specifically declare that such a referendum would not be deemed to materially affect any corporation. That statute also added stiffer fines and jail sentences for its violation.[19] Corporate plaintiffs First National Bank of Boston, New England Merchants National Bank, the Gillette Company, Digital Equipment Corporation, and Wyman-Gordon Company challenged the statute in state courts. However, the Massachusetts Supreme Court ruled against the corporations, and they were not allowed to spend in the referendum campaign.[20] Massachusetts voters rejected the referendum on election day, but the corporations appealed their case to the U.S. Supreme Court anyway.

When the Court overturned the decision of the Massachusetts court and established First Amendment protection for corporate speech, it was played at the top of the front page of many American newspapers, including *The New York Times*, *The Washington Post*, *The Los Angeles Times*, and *The Boston Globe* (which published three stories on its front page the morning after the decision).[21] The *New York Times* and *Post* respectively characterized the issue as one of corporate rights "to propagate personal and political views unrelated to their companies' business purposes"[22] and "to finance propaganda campaigns."[23] Less ominous descriptions were presented in the *Los Angeles Times*, which said corporations would have the right "to try to sway voters on political issues,"[24] and in *The Wall Street Journal*, which declared the decision would allow corporations to "disseminate their views on political issues."[25]

Differences in press reaction to the decision were also reflected in editorials published in response to it. The *New York Times* expressed its hope that the Supreme Court would not continue endowing corporations "with more and more of the civil rights that the Constitution reserved for individuals."[26] The *Journal*, in contrast, declared that "critics [who] see the decision as opening up the public policy arena to money-laden . . . companies . . . and regard this as a bad thing" would generally only be "the likes of Common Cause and the AFL-CIO whose own political clout is likely to be reduced by more intense competition in the marketplace of ideas."[27] The *Post*, however, called the decision "a thunderbolt in law and politics" and declared corporations to be "megaphones for the views of those who own or control them. . . . Corporations, in short, are *money* talking [emphasis included]. . . . If it will mean that the voices of those with the most money will have an unfair advantage over other voices in political debate, we do not see how that would usefully serve the purposes of free speech."[28] The *Los Angeles Times* conceded that "corporate influence on political issues is no simple matter" but expressed confidence that "our political system is sufficiently ingenious to keep its processes in fair balance without interfering with free speech."[29]

Just as the American press differed in assessments of the decision that has been described as the "Magna Carta" of corporate-speech doctrine,[30] so too did many of the voices involved in the legal arguments on *Bellotti* and the other corporate-speech cases that are focused upon in this study. The framing analysis of that discourse in this chapter provides critical insights into the way the new parameters of corporate-speech rights were wrestled into place through landmark Supreme Court debates over the nature of both corporate personhood and the appropriate relationship between society and the corporation. In the symbolic meaning that is reflected in the ways in which parties involved in the court cases asserted the reasoning behind their positions, certain key commonalities emerge relevant to the dominant frames identified in the Mobil corporate-speech narrative.

Conducting this sort of framing analysis on legal documents presented different problems from Mobil's advocacy messages. Not only were the legal documents created for dissimilar purposes and venues than were Mobil's, they were structured in very different formats. Although legal opinions and briefs are not all written and structured according to a strictly uniform format, in any such document some portions and passages typically deal more with factual or procedural issues, points of law, holdings, and related matters. Other parts of the document deal more with the reasoning or justification behind the larger point or points that are being advanced. These elements — usually referred to together as the rationale — often involve the author's or authors' interpretations and understandings of various aspects of the case — including theoretical, historical, philosophical, and even common-sense assertions.[31] These elements of legal documents are quite significant because points of law and case law, strictly in and of themselves, often are not enough to explain decisions, especially in the highly complicated cases that reach the Supreme Court and often result in landmark precedents. Additionally, each side in such cases offers varying bodies of case law as most pertinent to deciding the case at hand. So the ways in which case law and points of law are placed within the context of a rationale justifying them can offer not only insight into the legal meaning associated with a decision but into the symbolic meaning as well.

Thus, the progressive theoretical sampling — "selection of materials based on emerging understanding of the topic under investigation . . . for conceptual or theoretically relevant reasons" — emphasized in Altheide's document-analysis method is particularly productive when investigating the narrative represented by these legal documents.[32] Conceptually, the rationale articulated in a legal opinion or brief can be considered generally analogous to the practice of framing. This is particularly the case in terms of Entman's assertion that "to frame is to select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described."[33] Promoting definitions, interpretations, evaluations, and recommendations is at the heart of what legal opinions and briefs do.

For example, in the *Bellotti* decision, the Supreme Court began its rationale by literally reframing the ultimate issue that should be decided by the case. "The court below framed the principal question in this case as whether and to what extent corporations have First Amendment rights. We believe that the [Massachusetts] court posed the wrong question," the opinion stated. "The Constitution often protects interests broader than those of the party seeking their vindication. The First Amendment, in particular, serves significant societal interests. The proper question therefore is not whether corporations 'have' First Amendment rights and, if so, whether they are coextensive with those of natural persons. Instead, the question must be whether . . . [the Massachusetts statute in question] abridges expression that the First Amendment was meant to protect."[34]

The points of reasoning and justification in such legal documents are not always stated quite as cogently and directly as in that instance. By focusing upon those passages of the documents in this study in which their rationale was advanced in some fashion, however, the prominent and recurrent themes began to emerge, including some commonalities with the Mobil narrative.[35] In particular, the themes of the corporation as responsible citizen, as voice of reason, as societally concerned, and as vital democratic participant held some degree of commonality with the legal narrative. The key themes in the legal narrative were expressed more broadly, however, in terms of the nature of corporate personhood and of the relationship between society and the corporation. It is through those broader themes that the dominant framing and symbolic meaning of the corporate-speech legal narratives connect most significantly to the historical context of the period.

The Nature of Corporate Personhood

The conflict of divergent ideas asserted through the opinions and briefs from Supreme Court corporate-speech cases reflects an intense struggle over the First Amendment issues that were at stake within the context of the two broad themes. Through the resolution of that struggle, what can be considered the dominant frame of the legal documents was constructed. That "super theme" was not quite synonymous with the dominant frame of the corporation as citizen — most compellingly articulated by Mobil's editorial-advocacy campaign — but it added support to that frame. Ultimately, the Supreme Court's corporate-speech narrative served to symbolically bolster the concept of the corporate citizen in American society — a role championed by the Mobil advocacy narrative.

The Supreme Court ultimately redefined the central question addressed by the *Bellotti* case to focus on the protection of corporate speech itself rather than the First Amendment rights of the corporate person. Before the Court rendered its decision, however, the question of whether corporate personhood encompassed such rights was an important theme in the briefs arguing the *Bellotti* case. Clearly, according to those briefs, before the Court handed down its opinion on the question, some legal minds believed the case could well hinge on the slippery and long-debated conceptualization of the corporate person. Broadly, it has been a "contentious problem for centuries" to sort out the degree to which the "juristic personality" of the corporation is that of "an artificial being, invisible, intangible, and existing only in contemplation of law" (as Chief Justice John Marshall declared)[36] or that of "a natural person . . . qualifie[d] . . . to participate in the life of the state."[37] In the course of American jurisprudence, corporations have at times been extended rights similar to natural persons and on other occasions have been been denied such rights.

The Massachusetts Supreme Court had viewed the principal question in the *Bellotti* case as "whether business corporations . . . have First Amendment rights coextensive with those of natural persons or associations of natural persons." The Massachusetts court had concluded that corporate rights in that regard were such that they could be restricted in ways that the rights of human individuals could not — in effect rejecting notions that linked corporate citizenship with First Amendment rights.[38] Therefore, in the briefs filed before the U.S. Supreme Court in the *Bellotti* case, the two sides both emphasized arguments on that issue — whether First Amendment protection should be a right associated with corporate personhood. It was a question that had never been decided by the High Court.

The brief that the government filed with the Court in *Bellotti* articulated why the Massachusetts Supreme Court decision restricting corporate activity to influence referendum issues should be upheld. A specific theme in the brief stressed that First Amendment rights should not be considered as any part of corporate personhood. "Corporations not in the business of communications or speech do not have First Amendment rights. First Amendment rights, encompassing the freedom of unfettered thought, opinion and speech, are peculiarly personal in nature," said the brief, in effect rejecting the recurring Mobil theme that corporations are vital democratic participants through their speech. The government maintained that corporations could claim constitutional protection for property interests, but that liberty rights represented by the First Amendment were guaranteed only to "natural, not artificial persons." That, the government insisted, was the critical difference: Rights established to enhance the democratic participation and personal fulfillment of human individuals could not be granted to a non-human entity such as the corporation.[39] Corporate participation in democratic processes was depicted in the government's brief not as vital but as potentially corrupting. Human citizens would lose confidence in government if corporations were allowed the same role in democratic decisionmaking as were individuals, the brief argued. All the individuals who worked for corporations each had the same First Amendment rights as other citizens, the government said, and therefore the corporate entity itself should not be granted such rights.[40]

The State of Montana, which also was involved in efforts to regulate corporate activity in referendum campaigns in the seventies, filed an amicus curiae brief in the *Bellotti* case arguing that the Massachusetts regulation should be upheld by the Supreme Court. In its brief, Montana also rejected the concept of the corporation as vital democratic participant, strongly dismissing any notion of equating corporate personhood with human personhood in the exercising of First Amendment rights. As defined by that brief, the corporate form was created by government only to provide "a convenient way of doing business," not the rights of citizenship. "The focus of the Bill of Rights is on the freedom and liberty of the individual," Montana said, and the First Amendment protected only expression that directly reflected "the desires and decisions of natural persons." To embrace an understanding of the individual and the corporation as equal in their freedom of speech, the brief argued, would be as ludicrous legally and metaphorically as granting the corporation freedom of religion.[41]

The brief for the corporate interests in the *Bellotti* case, however, filed by attorneys representing the Boston law firm Bingham, Dana, and Gould, depicted the spending of money as a legitimate expression of speech and democratic participation. The corporate brief argued that in terms of personhood, corporate expenditures of money to influence political decisions were simply another form of free speech. Artificial corporate beings were represented to be too similar to human beings to justify denial of First Amendment rights.[42] An amicus curiae brief filed by Associated Industries of Massachusetts, representing a group of other corporate interests in the state, also encouraged an understanding that corporate personhood was endowed with First Amendment rights.[43] It invoked historical lessons said to be provided by late-nineteenth-century Supreme Court rulings that granted corporate personhood the protection of Fourteenth Amendment prohibitions against states depriving "any person of life, liberty, or property without due process of law," or denying "any person . . . equal protection of the laws."[44] Associated Industries conceded that corporate persons might not be entitled to all the constitutional rights of natural persons, but that because corporate speech would expand the range of voices contributing to democratic debate, it should receive full First Amendment protection.[45]

Ultimately, however, the Supreme Court majority decided not to base its decision on the question of corporate personhood. The justices on the Court were sharply divided in their *Bellotti* opinions, and the case was decided by the narrowest of margins. The 5-4 decision was marked by disagreement between majority and minority on almost every aspect of the case — including the significance of the issue of corporate personhood. The minority depicted it as a crucial issue, while the majority declared it irrelevant to the decision at hand. The majority's primary holdings were (1) that speech concerning the issues in a referendum was the type of speech indispensable to decisionmaking in a democracy, even when the speech came from a corporation rather than an individual; (2) that the inherent worth of the speech in terms of its capacity for informing the public did not depend upon the identity of the source; and (3) that speech otherwise within the protection of the First Amendment did not lose that protection because its source was a corporation.[46]

All those holdings evolved out of the way that the majority opinion, written by Justice Lewis Powell, began by declaring that the question of corporate personhood was irrelevant to the decision at hand. The opinion said that quite simply the lower court had addressed the wrong "principal question." Rather than deciding the case upon whether corporations had First Amendment rights equal to those of natural persons, the majority decision defined the problem as whether or not the Massachusetts regulation abridged "expression that the First Amendment was meant to protect. We hold that it does."[47] In effect, the Court's majority declared that the corporate voice was a vital participant in democracy — not because of any inherently vital contribution that voice had to make, but simply because it was judged to be no different from any other voice. "If the speakers here [the *Bellotti* defendants] were not corporations, no one would suggest that the State could silence their proposed speech," Powell wrote in the majority opinion, asserting that the Court "need not address . . . the abstract question of whether corporations have the full measure of rights that individuals enjoy under the First Amendment."[48] In the marketplace of ideas, that meant that the corporate voice had the same status as the human voice. By establishing in law that corporate personhood was irrelevant in justifying First Amendment restrictions, the Court created de facto First Amendment rights for corporations. Though that was not the *literal* holding, it was the practical one.

In dissenting opinions, Justices Byron White and William Rehnquist strongly rejected the reasoning of the majority on several points, encouraging a very different understanding of corporate personhood. White's dissent provided an expansive argument for why that factor should not be eliminated in considering questions of First Amendment rights for corporate speech. "An examination of the First Amendment values that corporate expression furthers and the threat to the functioning of a free society it is capable of posing reveals that it is not fungible[49] with communications emanating from individuals and is subject to restrictions which individual expression is not," White began. "Indeed, what some have considered to be the principal function of the First Amendment, the use of communication as a means of self-expression, self-realization, and self-fulfillment, is not at all furthered by corporate speech."[50] White contended that ideas that were not such a product of individual cognition were therefore entitled to less First Amendment protection.[51] In that concept, all voices in the marketplace of ideas were not necessarily of the same nature, and corporate speech was not a vital participant in democratic decisionmaking but a potential distortion of the process. In White's representation of corporate speech, removing it from the marketplace of ideas would not eliminate any vital democratic participant because corporate managers, shareholders, employers, and customers would still have the same rights as all other individuals to express their ideas.[52]

Justice Rehnquist in his dissenting opinion was similarly adamant about the limited First Amendment rights conferred by corporate personhood and about the insignificant loss to society that would result from regulation of the corporate voice. Rehnquist declared that defining the nature of corporate personhood should be based upon the circumstances of its creation. Because, he said, all the corporations who brought the *Bellotti* action were created as legal entities by the Commonwealth of Massachusetts with their rights defined by state charters, "It cannot be disputed that the mere creation of a corporation does not invest it with all the liberties enjoyed by natural persons." Even if corporate speech rights were limited in democratic processes, Rehnquist wrote, "All natural persons, who owe their existence to a higher sovereign than the Commonwealth, [would] remain as free as before to engage in political activity."[53]

Thus, in the legal discourse on the theme of corporate personhood, the struggle to frame corporate speech in relation to the First Amendment was forceful on both sides. The government briefs and the justices in the minority depicted the nature of corporate personhood as a crucial factor in determining whether corporate speech should be considered something of a different order from human speech. The majority justices rejected that understanding of the nature of corporate personhood, declaring the entire subject irrelevant to deciding whether government could regulate corporate speech related to the democratic processes involved in *Bellotti*. If only one justice from the majority had voted differently, it would have resulted in a decision that in effect rejected the concept of the corporation as politically engaged citizen. By the narrowest of margins, however, the Supreme Court majority refused to accept any framing of corporate personhood that placed it outside the realm of human participation in democratic processes.

Society and the Corporation

A second theme was also prominent in the *Bellotti* legal discourse — the nature of the appropriate relationship between society and the corporation. Through competing assertions of how that relationship should be conceptualized and constitutionalized, the participants in the discourse contended over the symbolic meaning of First Amendment protection for corporate speech. The outcome of that debate in the seventies' legal narrative on corporate speech cannot be considered synonymous with the dominant framing of the Mobil narratives, but it was hardly contradictory. If the corporate advocacy messages of the

1970s symbolically represented the corporation as a politically engaged citizen, the Supreme Court majority did not ultimately reject that assertion in *Bellotti* or the later corporate-speech decisions of the period.

Briefs filed with the Supreme Court in support of government interests in the *Bellotti* case sought to define the corporation as purely a commercial or economic entity. Therefore, in that representation, the corporation was by implication not a vital participant in democracy or even in the broader society, much less a citizen. Briefs arguing for corporate interests sought to represent the corporation as very much more than an economic entity, often through assertions that shared commonalities with Mobil advocacy themes of the corporation as responsible citizen, societally concerned, and vital democratic participant.

On this theme though, the brief for the State of Massachusetts actually failed to focus as much attention on articulating its concept of the relationship between the corporation and society as it had on its concept of the nature of corporate personhood. That government brief did declare the corporation to be basically no more than an economic entity, because that was the only purpose for which the state had chartered it.[54] Therefore, as Massachusetts depicted the corporation, having been created and defined as a form of economic entity advantaged in material pursuits, the corporation's interests could not extend beyond those that materially affected it — as the state's corporate-speech regulation in question dictated.

A fuller articulation of the rationale for defining the corporation strictly as a commercial entity and no part of broader societal concerns was presented by the State of Montana in its amicus curiae brief. Whereas Mobil's corporate-advocacy messages had represented the corporation as deeply concerned and necessarily engaged with society, Montana encouraged an understanding of the corporation as no more than "the manifestation of the profit imperative." Rather than engaging with society out of diverse concerns, the corporation "must direct all endeavors toward its fundamental goal" of maximizing profits. "When it follows this business motive," Montana said, "corporate speech is commercial no matter what the superficial form of the message. Management is under a fiduciary obligation to use corporate capital to produce a return, and of necessity uses corporate speech strictly to that end." Because that "profit imperative" was enhanced by the fact that "states have clothed corporations in such attributes as limited liability and perpetual life in order to increase the economic viability of corporations and so strengthen the economy generally," Montana asserted that it was critical that the corporation not also be a participant in democratic processes.[55]

Because society had intended that the corporate form only be used for economic gain rather than political advantage, government was obligated to "guard continually against excessive corporate influence in the political sphere," the Montana brief declared. The Massachusetts regulation restricted not speech, the brief argued, but simply the application of commercial leverage to democratic processes — utilizing the corporate "treasury to promote political viewpoints." To allow that, Montana contended, would create a relationship between the corporation and society incompatible with a viable democracy: Corporate speech "must bow to State prohibitions promulgated to serve overriding societal interests, such as the integrity of the electoral process."[56]

The brief for the corporate interests that brought the *Bellotti* case summarily rejected the concept of limiting corporate speech to material interests, arguing that it was in a democratic society's interest to hear corporate ideas on the full range of political and social issues.[57] More forceful assertions on the theme of the relationship between the corporation and society were articulated in the discourse of amicus curiae briefs submitted in support of the corporate parties in *Bellotti*. Much in the same way that the corporate-advocacy messages of the seventies represented the government regulation of corporations as a looming threat to the wider society, a brief filed by Northeastern Legal Foundation and Mid America Legal Foundation warned that "the lessons of history tell us that when a fundamental right is taken from one group in society, that right will not be long enjoyed by others." Allowing the government the power to regulate expression of the corporate voice would allow it to then regulate any voice in American society, contended that brief, filed by non-profit think tanks that focused on corporate legal issues.[58] The U.S. Chamber of Commerce depicted the political speech of "incorporated enterprise" to be as equally vital to "the free, frank, and robust expression of public opinion" fostered by the First Amendment as was any other source of such speech.[59]

Associated Industries of Massachusetts, representing a group of other corporate interests in the state, offered what it represented to be a lesson on the difficulty of distinguishing material interests from wider societal interests — a hypothetical situation in which a referendum on whether to build a new civic center was brought before voters. Government might consider that not to be a material interest of corporations in the community, the brief speculated, but the corporations could well wish to speak on the issue on the grounds that it could improve the business climate for the city.[60] A brief filed by the New England Council, which promotes economic growth in the New England region, depicted the relationship between the corporation and society as one grown so interdependent that "the public has a right to know the state of mind of business corporations . . . because business corporations may act upon their beliefs."[61]

The Supreme Court justices were just as split on the nature of the appropriate relationship between the corporation and society in the *Bellotti* opinions as they had been on the question of corporate personhood. Justice Powell's majority opinion declared that the societal interest in all information flowing freely was so great that giving government power to limit corporate speech to material interests would be a detriment to society. "The 'materially affecting' requirement is not an identification of the boundaries of corporate speech etched by the Constitution itself," Powell wrote. "Rather, it amounts to an impermissible legislative prohibition of speech based on the identity of the interests that spokesmen may represent in public debate over controversial issues."[62] Essentially, the majority opinion depicted the interests of corporations as indistinguishable from the wider interests of society in relation to First Amendment rights.

In their dissenting opinions, however, Justices White and Rehnquist sharply rejected that assertion, arguing that the interests of the corporation could not be considered one and the same with the interests of society. "The issue is whether a State may prevent corporate management from using the corporate treasury to propagate views having no connection with the corporate business," said White in his dissent, which was joined by Justices William Brennan and Thurgood Marshall. "This Nation has for many years recognized the need for measures designed to prevent corporate domination of the political process," White emphasized, detailing the ways in which the United States had sought since early in the twentieth century to limit corporate political influence through the Corrupt Practices Act of 1907 and other federal and state statutes. He warned that the *Bellotti* majority had undermined that body of law by granting First Amendment protection to corporate speech.[63] Focusing on the theme of the corporation serving society beneficially only through its economic function, White said "The State need not permit its own creation to consume it." Not to impose limits upon the political activities of corporations, he said, would place government "in a position of departing from neutrality and indirectly assisting the propagation of corporate views because of the advantages its laws give to the corporate acquisition of funds to finance such activities."[64]

In a separate dissent, Rehnquist emphasized a similar theme, as he would in all the corporate-speech cases of the decade. He consistently depicted the government-endowed economic advantages of the corporation as too significant to be ignored when considering First Amendment questions concerning the corporation. "Those properties, so beneficial in the economic sphere, pose special dangers in the political sphere," wrote Rehnquist in his *Bellotti* dissent. "Liberties of political expression are not at all necessary to effectuate the purposes for which States permit commercial corporations to exist." Because the judicial branches of government protected corporate property interests sufficiently, Rehnquist declared, the corporation "has no need, though it may have the desire, to petition the political branches for similar protection. Indeed, the States might reasonably fear that the corporation would use its economic power to obtain further benefits beyond those already bestowed."[65]

Thus, the debate on the appropriate relationship between the corporation and society was just as closely contested among the Supreme Court justices as had been their debate over the nature of corporate personhood. By the slimmest vote possible, the majority in the 1978 *Bellotti* decision embraced a theme establishing the corporation as representing interests too indistinguishable from broader societal interests for government to regulate corporate speech without violating the First Amendment. The nature of the appropriate relationship between the corporation and society would again be contested in the discourse of the briefs and opinions of the other corporate speech cases later in the decade. Both of those cases would develop out of issues related to the energy crisis of the seventies.

THE POLITICS OF THE ENERGY CRISIS

During that late-seventies period, energy problems again came to dominate American politics. Five years after the Arab oil embargo, *U.S. News and World Report* declared that the nation was "no nearer a solution" to its energy problems and dependence on imported oil. Imports over that period had climbed from 36 percent of the oil consumed in the United States to 43 percent, and annual payments for foreign oil had jumped from $7.6 billion to $41.5 billion.[66] "Out of Gas" signs began to appear in front of service stations around the country in late 1978, as gasoline once again fell into short supply and prices began to rise at the pump. OPEC raised prices — 33 percent on one day alone in 1979.[67] Demand began to exceed supplies, at a time when most motorists had all but abandoned conservation efforts during the mid-seventies.[68] Once again, the OPEC hikes "acted as a sort of giant world-wide sales tax, raising prices and draining off purchasing power," *Fortune* magazine said.[69] The oil companies though were doing very well, with much of the steam having gone out of congressional efforts to break up Big Oil, and OPEC having been forced to make lucrative concessions in order to retain the companies' needed production and distribution expertise.[70]

Jimmy Carter, however, found his presidency forced into an increasingly no-win equation — trying to tame inflation while energy prices kept climbing and recession loomed. "The truth is," *Time* would declare in mid-1979, "in both energy and the economy, the deterioration has by now gone too far for the Administration to do much of anything."[71] The administration was committed to a policy of allowing energy prices to rise to their "true replacement values" so that the greater cost would promote conservation and stimulate investment in both conventional and alternative energy sources, helping free the nation from its dependence on imported oil.[72] Economists, oil companies, and many business groups — including the Business Roundtable — almost all endorsed the policy.[73] Mobil was virtually alone among the oil companies in opposing Carter's plan to decontrol prices on existing oil production while imposing a windfall-profits tax on most existing and future production. Mobil instead proposed essentially the opposite — continuing price controls on oil currently in production in return for freeing future production from controls.[74]

Mobil claimed that "the President's tax program would indeed create a windfall — a windfall for big government getting even bigger on money that should go into the search for new gas and oil."[75] The company maintained that "the oil industry should forego any price increase beyond inflation on oil from wells currently in production in the United States, eliminating thereby any alleged 'windfalls,' " and that at the same time, "the oil industry . . . [should be] allowed the world market price for oil it discovers in the U.S. in the future."[76] Most of the other oil companies focused their efforts on convincing Congress to grant them a share of what the *Times* referred to as the "gravy" that would be generated by the windfall-profits tax."[77] The stakes were so high that a "legion of special interests" vied for lucrative tax credits and special exemptions as the tax legislation worked its way through Congress.[78] The oil companies contended that they needed some $20 billion a year from the tax proceeds in order to increase domestic oil production enough to meet demand.[79]

Carter's frustration with that effort at one point led him to tell the *Times* that the oil companies' answer for the energy crisis seemed to be: "If you just give us enough money, all the problems will be over."[80] He did not cite any company specifically, but Mobil responded that it was "troubled" by the president's statement. "Since Mr. Carter first presented his energy message to Congress, our ads have probed, dissected, analyzed, and on much of his program, disagreed," Mobil said. "But our messages hardly boil down to 'just give us enough money.' "[81] The company's probing and dissecting — and particularly its opposition to Carter's proposed windfall profits tax — eventually led to an even more pointed shot from the president when he said that Mobil was "perhaps the most irresponsible company in America."[82] In its next *Times* op-ed, Mobil replied: "While we are not happy about press stories which describe the President of the U.S. as making unflattering comments about Mobil, the episode has had the virtue of bringing into focus the substantive fact that we are in disagreement with the President's proposals concerning crude oil pricing and taxes."[83]

Saturday Review noted how sharply Mobil's defiance of Carter contrasted with the way U.S. Steel had immediately rescinded a price increase when chastised by President John Kennedy seventeen years before.[84] If anything, Mobil stepped up its criticism of Carter's energy policies as 1979 continued, rather than grant the White House such deference. A month after Carter called the company irresponsible, Mobil said that after the president urged decontrol of crude oil prices as an increased incentive to explore for more domestic oil and natural gas, he "promptly urged the removal of most of this new incentive through additional taxes. He coupled that with inflammatory rhetoric that buried any hope for rational legislative consideration. Little wonder that the public does not know where to turn."[85] A couple of weeks after that, Mobil blasted Carter's efforts to promote his energy plan, saying that "it's typical government thinking to spend a staggering $140 billion on synthetic fuels, mass transit, subsidies for the poor, and other purposes and figure nobody will notice, so long as the money is supposed to come from taxes on the oil companies. . . . Hope Mr. Carter doesn't think that industry will abdicate its right to dissent or to criticize."[86] Rather than abdicating, Mobil kept its criticism coming and accused the administration of an anti-Mobil vendetta, which, the company claimed, appeared to be directed at "our company and our company alone, because of our policy of speaking out on energy issues, sometimes at variance with Administration policy."[87]

The administration at that time was pushing for development of such alternate energy sources as synthetic fuels, oil shale and tar sands, solar power, wind, geothermal steam, and even the movement of ocean waves — all of which were argued by proponents to hold potential promise for a nation weary from close to a decade of petroleum woes. Experimental plants were established to extract oil from shale and tar sands, a rich domestic energy source in vast Colorado, Utah, and Wyoming deposits. Whether the cost could be brought down to a level competitive with that of pumping oil from the ground remained a debated question. An increasing number of solar devices were being developed that could produce electricity, though also not yet at a competitive price. High-tech windmills were cost-effective in locations with steady winds. All such alternatives remained long-term in their potential and in need of government funding for further development. *Time* declared that "until the applications, costs and technologies of each alternative become better understood, the U.S. would be wise to examine all of them."[88]

As the wrestling match proceeded among powerful interests for advantage in energy policy, Carter seemed to face trouble on practically all fronts. He had tried to maintain a moderate course, attempting to dismiss as "people who are always hard to please"[89] liberal critics such as the Consumer Federation of America, which called his energy policies "anticonsumer and regressive."[90] The editors of *The Nation* said Carter had "done more to place our economy at the oil companies' mercy than all our previous Presidents put together" by deregulating the price of domestic natural gas and making similar plans for crude oil by 1981.[91] Business leaders, however, seemed just as difficult to please, with a majority of them rating the president's handling of economic issues as ineffective in a 1978 poll.[92] George Jerome Goodman, the economics writer who published under the pen name "Adam Smith" described in a 1978 *Atlantic* magazine article an account from an unnamed friend of his who had attended a Carter Cabinet meeting in which the president's economic advisors were asked what he should do about inflation. Each suggestion offered — wage-and-price controls, wage-and-price guidelines, encouraging capital for reinvestment and productivity, an energy bill, cutting the budget deficit — was rejected in turn by others in the group. At the end of the meeting, Smith wrote, "Each suggestion has been met with the comment that it is not enough, and that together, all the suggestions are not enough."[93]

Carter's standing with Americans as a whole declined virtually throughout the second half of his presidency, the period during which he wore sweaters for some of his televised addresses to the nation on energy policy, encouraging Americans to turn down their thermostats. Although his administration was committed to reducing inflation, every time energy prices rose, it sent further inflationary shocks rippling through the American economy. By early 1979, some 45 percent of Americans reported having cut back on food purchases because of rising prices.[94] "Jimmy Carter's 'moral equivalent of war' . . . description no longer seems absurd," said *Time* as another winter of exorbitant heating costs approached in 1979. "Keeping warm has become a tribal obsession."[95] While the average weekly earnings for a worker with three dependents increased from $138.59 in 1975 to $201.26 in 1980, when adjusted for inflation based on 1967 dollars, those earnings actually fell from $88.08 over the same period to $84.85.[96] The economy was in such bad shape as 1980 began that *Business Week* declared it was not a matter of "whether things will be good or bad — rather, it is: How bad will they be?"[97]

Carter's approval rating got an upward blip when it rose five points to 42 percent in March of 1979 after Israel and Egypt signed the peace treaty that the president had negotiated at Camp David the previous fall.[98] However, three months later, his rating had fallen to its lowest point yet, with only 30 percent of Americans expressing approval for Carter's handling of his job.[99] By the spring of 1980 — presidential primary season — the *Times* was describing the president's loss of support in stunning juxtaposition to runaway inflation: "Picture a chart with two lines: One, declining, represents public approval of President Carter's handling of the economy; the other, rising, the current rate of inflation. The two lines have almost intersected, with the President's performance rating at 21 percent in the latest New York Times/CBS News Poll, and the rate of increase in consumer prices at a projected annual rate of 18 percent."[100]

At that point, the takeover of Iran by Muslim fundamentalists and the subsequent seizure of Americans as hostages at the U.S. Embassy in Teheran had compounded Carter's problems, further straining U.S. oil supplies. Oil production from Iran declined sharply in the years after the revolution, from 5.6 million barrels a day in 1977 to only 1.3 million by 1981.[101] The *Times* grimly wondered how easily "a few well-aimed bullets around the Persian Gulf" could destabilize the entire Middle East and cut off completely the flow of its oil lifeline to the West.[102] *Time* magazine named Ayatollah Ruhollah Khomeini, Iran's new leader, its Man of the Year for 1979.[103]

In the spring of 1979, the price of oil jumped two dollars a barrel, and shortages in airline jet fuel developed, leading to fears of gasoline shortages for motorists. Energy Secretary James Schlesinger warned that prices at the pump would be climbing at least into 1980, and the Administration again developed emergency plans for gasoline rationing.[104] Some skeptics still questioned the reality of the crisis, however. *The Nation* charged that Schlesinger and the Department of Energy, with encouragement of the oil companies, were exaggerating the impact of the Iranian cutbacks in order to generate support for the Administration's oil-decontrol plans and relaxed environmental regulations.[105] *The New Republic* joined in that assertion, arguing that the cutbacks in Iran were not significant enough, in proportion to world petroleum production, to cause severe shortages or price increases. The headlines from Iran were unnerving enough though, the magazine contended, to be easily manipulated by the oil industry for greater profits and regulatory relief.[106] *U.S. News & World Report* said that it was true that the United States did not depend heavily on Iranian oil but that the tightening of the world market threatened to produce a worldwide shortage that could produce still sharper price increases.[107] Whatever the severity of the current crisis, *Business Week* maintained, "a continuing squeeze on available oil and ever-higher prices are as predictable as the workings of the law of supply and demand."[108]

Carter's poor approval ratings inevitably inspired political challengers, even within his own party. Late in 1979, Senator Edward Kennedy announced he would challenge Carter for the Democratic presidential nomination. Kennedy eventually would come close enough in his bid — including primary wins in New York, Connecticut, and Michigan — to deeply split the Democratic Party before the election and force Carter to make concessions in the Democratic Party platform that contradicted Administration policy. However, shortly after the beginning of Kennedy's campaign, he made an announcement that was almost as shocking as his plans to contest a sitting president who was a fellow Democrat: Kennedy hired Mobil's Herb Schmertz.[109]

Schmertz — one of the most outspoken and controversial executives from an industry that the senator from Massachusetts frequently castigated — would take a leave from Mobil to coordinate campaign media efforts, Kennedy announced. Kennedy's support for a stiff windfall-profits tax on oil companies, tighter government control of oil prices, and a curb on acquisitions outside the oil industry by oil companies basically all were in direct opposition to Mobil's position on such issues. A few months before hiring Schmertz, Kennedy said the oil lobby had "intimidated the administration into throwing in the towel . . . [and] submitting a token windfall tax that is no more than a transparent fig leaf over the vast new profits the industry will reap."[110] Mobil in turn had criticized Kennedy in its op-ed spots as recently as the spring before he announced his presidential bid.[111] Schmertz explained, however, that he had a longtime relationship with the Kennedy family, having worked in the campaigns of John and Robert Kennedy, and insisted that he would not be involved in the formation of energy policy.[112]

An *Esquire* magazine profile reported that Schmertz admired the Kennedys "more for their style and power than for their ideology."

Schmertz was close enough to the Kennedys that he had been responsible for organizing the train trip that carried Robert Kennedy's body back to Washington from Los Angeles after he was assassinated while campaigning for the 1968 Democratic presidential nomination. Schmertz had in fact taken a similar leave of absence from Mobil for that campaign.[113] Nevertheless, the *Times* declared, it was a hiring that emanated "an intense aura of strange bedfellowship."[114] A few months later, Schmertz again made headlines by co-authoring a "bedrooms-and boardrooms" novel that was panned as "poorly plotted."[115] *Takeover*, the story of an audacious corporate raider, was dedicated to "an endangered species . . . the free market system [ellipses included]."[116] Some members of Mobil's board of directors, however, complained to *Forbes* magazine that the racy novel could give people the idea that it reflected Mobil's own corporate behavior and style.[117]

Schmertz's leave of absence lasted six weeks, after which he returned to Mobil and Kennedy forged on among the early crowd of White House aspirants. The *Times*' annual National Economic Survey declared as 1980 began that "until politics and oil reveal their course, there is no calling the economy."[118] Republicans Ronald Reagan of California, John Connally of Texas (both former governors), and Representative John Anderson of Illinois, weighed in with Democrats Kennedy and Governor Jerry Brown of California to debate exactly what was wrong with Carter's energy policy.[119] Ultimately, Reagan's landslide victory over Carter in the November general vote would be attributed in post-election polls primarily to concerns over Carter's handling of the economy.[120] "Most of all," the Times said, "voters were worried about unemployment, inflation, and other economic issues."[121] Not until after Carter's defeat did the tight-money policies of Paul Volcker, the Federal Reserve Chairman whom Carter appointed in 1979, begin to bring inflation under control.[122]

A month before the November vote, Mobil had launched a series of *Times* op-ed spots that in barely veiled language called for voters to turn Carter out of the White House — the only time it made such an open statement on a political candidate during the decade. On each of the four Thursdays preceding the election, Mobil promised in its op-ed messages that the energy crisis could be ended in the eighties if Americans made the right choice. "We must have strong and wise political leadership if we are to overcome regional biases and the politics of confrontation," Mobil said four weeks before the election. "The present Administration, unfortunately has viewed oil primarily as a source of revenue for progressively greater government spending. . . . The choice between a safe degree of energy security and continued or increased dependence on foreign oil depends on choices made by the American public."[123] A week later, the Mobil spot insisted that "everything needed to meet increasing proportions of higher energy demand with domestic supplies is available to us — everything except appropriate government policy. . . . We may have to endure another energy crisis before the gravity of the situation sinks in."[124]

The week after that, the Mobil op-ed spot blamed the administration for failing to sufficiently develop coal-burning and nuclear power plants, stating that "greater public understanding and support" would be "the only means to assure appropriate government policies and actions."[125] Then on the Thursday before the Tuesday election, Mobil declared: "Our country has reached a point at which fundamental energy decisions must be made — decisions that can alter the course of history. . . . We believe the American people will respond positively to this historic opportunity."[126] Even after the election, Mobil continued to assail the Carter Administration for taking action in November to reduce the tax break that American oil companies received for taxes paid to foreign countries on income earned abroad. In op-ed spots, Mobil compared the action taken between Carter's defeat and Reagan's inauguration to President John Adams' appointment of "midnight judges" in the period between his loss in the election of 1800 and Thomas Jefferson's inauguration in 1801. As Carter's final days in office ticked away, Mobil was still fuming publicly over what it considered "an Administration whose policies have consistently been to make it ultimately impossible for American oil companies to operate overseas."[127]

Thus, as the interrelated economic and energy dilemmas of the decade mounted in the later seventies, the focus of Mobil's advocacy discourse grew ever more critical in asserting that government was the cause of all the problems. That criticism escalated even to the point of adversarial exchanges with President Carter that rejected and at times ridiculed the president's polices. With many Americans worried about what should be done to boost the staggering economy, Mobil was not hesitant to provide unequivocal answers. By the end of the seventies, its message had been honed into a call to replace the government in power in Washington with one that — in Mobil's view — would free big business to solve the economic crisis. That effort culminated with a series of Mobil op-ed spots in the *Times* in the final weeks before the presidential election of 1980 that promised the energy crisis could be ended if Americans made what the oil company offered as the right choice.

CITIZEN MOBIL'S LATE-SEVENTIES DISCOURSE

By the late seventies, Mobil's public-relations staff had grown to almost one hundred,[128] and the editorial-advocacy campaign continued to attract commentary. *Madison Avenue* magazine said in 1978 that Mobil's "almost theological dissents on matters of public policy add excitement and true partisanship."[129] Mobil's op-ed spots also were assessed as "hard-hitting" and the reason the company continued to be the most prominent practitioner of corporate advocacy messages.[130] Whether Mobil was any more loved at the end of the seventies than it was when it began its op-ed campaign in the *Times* at the beginning of the decade, however, was doubtful, Sethi contended.[131] The overall effects of corporate advocacy messages in the late seventies were difficult to measure, Welty concluded, but he found that a corporation could expect four benefits from the practice: editorial control, clarification of its position, publicity for the company, and identification of sympathetic segments of the audience.[132]

For its part, Mobil remained confident of the usefulness of its editorial-advocacy campaign. "I don't think they are necessary," Schmertz said of conducting studies to evaluate the effectiveness of advocacy campaigns. "I am persuaded without any scientific studies that people are reading our ads. . . . Our instincts say these ads are successful."[133] Sethi found that such positions were not unusual among corporate public-relations executives regarding advocacy advertising in the seventies[134] and said that it actually was not possible to measure the effectiveness of a general advocacy campaign like Mobil's on the *Times* op-ed page as could be done with a campaign focused on a more specific objective.[135] Writing more recently, Rutherford has observed that the seventies were a time when Mobil was "unquestionably" leading the way among a growing number of corporations who were turning to advocacy efforts to influence public opinion, even though the corporations had no reliable means to measure their efforts' effectiveness. Whether or not Mobil persuaded anyone, he said, "the very style of presentation conveyed the message that Mobil Oil was a responsible and reasonable player" in the marketplace of ideas. "Mobil wished to establish a public presence and a public voice as the moral expression of capitalism."[136]

Schmertz continues to profess today that Mobil's editorial-advocacy campaign was a valuable public-relations effort and that it made a significant impact in the marketplace of ideas. The campaign in the *Times* "demonstrated corporations can participate in the dialogue on important public policy issues," he said. "I think it enabled Mobil to achieve a position both in the energy industry and in corporate America generally that gave it a certain undefinable leadership ability." Schmertz believes that Mobil's arguments contributed to shaping the course of decisionmaking in Washington in the seventies. "Certainly it had an impact on important public-policy issues of day. I think it established the idea that corporations should speak out if they want to be a participant in the public-policy debates," he said. Schmertz is convinced Mobil made a difference with its op-ed efforts. "I think you would have to say what would it have been like had we not done it?" he said. "I think we won some battles, I think we changed some views. I think we had some impact on a whole variety of debates on issues."[137]

During the late seventies, Mobil's advocacy discourse in the *Times* continued to evolve, particularly in further sharpening its efforts to represent government regulation of business as a threat to individuals. During this period, Mobil's op-ed messages reflected a determined effort to encourage an understanding of its message in terms that went far beyond the oil industry or energy policy. While Mobil was involved in increasingly contentious relations with the federal government in the later years of the decade, its editorial-advocacy campaign developed ever more forceful themes that sought to depict government as a negative force in society and advance the legitimacy of its concept of corporate citizenship. That effort continued to promote its vision of the corporate citizen in American society by constructing significant representations of the corporation as responsible citizen, as voice of reason, as expert, and as vital democratic participant in the late seventies. All that would be coupled with even harsher criticism of government, blaming it for virtually all the problems that the nation endured in the seventies.

The Corporation as Responsible Citizen

Late in the decade, Mobil articulated an evolved version of its theme of corporate responsibility, depicting the corporation as nothing more than a collection of concerned individuals. Thus, as one op-ed spot defined the dynamic at work, the well-being of the corporation would be determined by the same factors that determined the well-being of other Americans. "Clearly . . . a corporation labors under severe handicaps in trying to establish itself as a good citizen," it said. "But the individuals who run businesses did not resign from the human race when they became corporate managers. . . . We have to breathe the same air [our critics] breathe, drink the same water they drink, live in the same towns and cities they live in . . . and exist in the same society in which they exist.[138] Regularly phrasing its corporate positions in terms of concern for individuals encouraged an understanding of Mobil's criticism of government regulation as simply a responsible response to government encroaching on the basic rights of Americans. "We have consistently made clear our opposition to increases in governmental bureaucratic interference with individual lifestyle," a Mobil op-ed message said in 1979. "We have argued that government regulation was frequently an attempt to regiment the American people into a behavioral mode believed to be 'correct' by the regulator."[139]

In 1980, Mobil published what it called a list of New Year's resolutions that included its intention to "keep advocating public policies that favor growth, economic advance, and a higher standard of living." Mobil represented such efforts as its contributions to responsibly assisting the American people to recover from the hard times of the seventies. It defined the remedy to the problems as more favorable tax policy and related incentives for business interests. "Although we keep reading in the papers that the good times, and the dream of a better life for every American, are now past history, we do not agree," the op-ed spot declared. "With improved national policies on taxes, trade, industrial incentives, energy, and capital formation, the United States can get going again. We plan to push hard in that direction."[140] Senator Thomas Eagleton of Missouri wrote in a letter to the *Times* that Mobil and other oil companies were actually already getting favorable treatment from the U.S. government, particularly on tax policy. Not only did Mobil typically pay a smaller percentage of its income in taxes to the United States than did most Americans, Eagleton said, the company was paying much much lower tax rates at home than it was to the governments of the OPEC nations.[141] Mobil, in a letter by James Q. Riordan, a senior vice president with the company, countered that its U.S. taxes were higher than Eagleton suggested because he had not counted taxes the company deferred through accounting measures.[142]

The Corporation as Voice of Reason

In the late seventies, Mobil depicted its opposition to President Carter's proposals to promote alternative sources of energy as a matter of basic logic. Offshore oil and gas fields simply "represented a much more immediate and economical source of energy than such long-term sources as oil shale, nuclear breeder reactors, or solar power," an op-ed message said.[143] Mobil frequently commended the long-term potential of such alternative energy sources but dismissed any suggestion of their value for the 1970s crisis as hopelessly irrational. The keywords employed in relation to oil and gas production were "practical" and "affordable," while alternative sources such as solar power were characterized as "a lovely idea and a worthy goal, but still a long, long way off." While "dancing around in the spring sunshine," might be a nice feeling, Mobil said after 1978's Sun Day, devoted to promoting solar power, "feeling won't substitute for science."[144] Responding to that criticism of Sun Day, the actor Robert Redford, who was active in supporting development of solar energy, said in a letter to the *Times* that Mobil had "chosen to perpetuate the myth that solar energy is not a current reality." Arguing that solar energy was potentially very profitable, Redford said that it was "the nearsighted, self-protective mentality evident in Mobil's ad that made Sun Day necessary."[145] Mobil replied, in a letter to the *Times* from Schmertz, that the oil company was "simply being realistic" in calling for the nation to focus on "energy sources we know will work," such as oil, natural gas, coal, and nuclear power, instead of on potential solar-energy sources still in the research stage.[146]

Those who disagreed with Mobil's proposed remedies for the energy crisis were frequently represented in its op-ed messages as an unrealistic minority — "a small number of energy negativists, including some in Congress who simply will not acknowledge the need to find and produce more domestic energy," one 1978 spot said.[147] In Mobil's depiction of the situation, such a refusal to face reason was jeopardizing "nothing less than the survival of our form of government. We believe this form of government is preeminently worth defending — by everyone who is able to rise above emotion to comprehend the implications of the energy problem."[148] If liberals were reasonable, Mobil maintained, they would support a pro-growth energy policy in order to revive the American economy and produce more tax revenue for social programs such as Aid to Dependent Children, Social Security, housing for the poor and the elderly, school lunches, and other programs. "It therefore would seem to us that in all logic, liberals would be as pro-business as they are pro-social progress."[149] As was often the case, Mobil did not identify the liberals to whom it was referring. During the same month as that op-ed spot was published, however, the editor of *The Progressive* magazine wrote that since he and his staff surely must be among the liberals Mobil frequently assailed, he would explain their lack of enthusiasm for the company's relentlessly pro-growth agenda. "We contend," wrote Erwin Knoll, "that productivity based largely on the squandering of our resources, the pollution of our environment, the jeopardizing of workers' health and safety, the merchandising of schlock, and the manufacture of weaponry isn't really all that wondrous."[150]

Mobil did not respond specifically to that commentary, but in the late seventies it tended to characterize opponents of what it considered a reasonable energy policy as not only irrational but increasingly a threat to America's traditional values and to its future. In one op-ed spot, it promoted the lessons that it argued should be drawn from its version of American history, which placed business as the driving force in "America's huge leap forward in living standards" in the twentieth century, responding logically to society's needs and wants. In recent years, however, that good life had been endangered by unreasonable government regulation and could only be protected through "the restoration of more freedom to the marketplace."[151] Such attacks by Mobil were branded as "merely using regulatory reform as a kind of shibboleth masking their real motivation, which is to pull the teeth from health and environmental programs" by Gus Speth, Chairman of the Council on Environmental Quality.[152]

The Corporation as Expert

As it did throughout the decade, Mobil continued in the late seventies to associate the positions it advocated with sources who were represented as experts and authorities, depicting its messages as grounded in more considerable interests than strictly the commercial pursuits of a business corporation. In the late seventies, for example, Mobil op-eds often featured what was characterized as expert support for its position in favor of greater development of nuclear energy, such as Dr. Bernard L. Cohen, professor of physics at the University of Pittsburgh, attesting that the potential risk involved with nuclear power plants was extremely low.[153] Even after equipment failures and human error contributed to a near-meltdown of the radioactive core at the Three Mile Island nuclear reactor at Harrisburg, Pennsylvania, in 1979, causing radiation to be leaked into the air, Mobil devoted an op-ed message to statements by nuclear physicist Edward Teller. Teller, whose long career in nuclear research had included the project that developed the first atomic bomb at Los Alamos, New Mexico, during World War II, declared that the only actual victim of Three Mile Island was him — because he suffered a heart attack after testifying during investigations into the accident.[154] Shortly after the Three Mile Island incident, the *Times* editorialized that the nuclear-power industry did have a good safety record but that the crisis at the Pennsylvania plant showed what potentially disastrous accidents remained possible. The editorial urged that use of nuclear power not be expanded until even more reliable safety systems were developed.[155] Jan Beyea, a scientist with the National Audubon Society, wrote to the *Times* to argue that Mobil's continued promotion of nuclear power was unwise even aside from safety concerns. Beyea contended that conservation efforts and temporarily increased burning of coal at power plants could more economically sustain the nation's energy needs until solar-energy sources could be developed.[156] Increased use of nuclear power would create less air pollution than would relying too heavily on the burning of coal, Mobil replied in a letter to the *Times* by Schmertz.[157]

Mobil also frequently drew upon well-known publications when they contained material that it found useful in promoting its concepts. Excerpts from a *Science* magazine editorial were presented to assert that the magazine and Mobil had basically the same position on energy policy. “Thanks, *Science*,” the op-ed spot declared, “for saying it scientifically.”[158] In its continuing efforts to advocate decontrol of domestic oil prices, Mobil published excerpts from editorials said to favor decontrol in newspapers such as the *Times*; the *Washington Post*; the Rochester, Minnesota, *Post-Bulletin*; the Orlando, Florida, *Sentinel Star*; *The Arizona Republic*; *The* (Baltimore) *Sun*; the White Plains, New York, Westchester Rockland Newspapers; the Jefferson City, Missouri, *News-Tribune*; and *The Richmond News Leader*.[159] On consecutive Thursdays in late 1978, Mobil reprinted editorials from the *Post* that called for an end to price controls on gasoline on the reasoning that such controls were interfering with market mechanisms, keeping prices below market value, and leading people to drive more instead of conserving.[160] In a 1979 op-ed spot, Mobil commended the *Times* for two editorials that acknowledged higher energy prices would need to be part of solving the energy crisis.[161]

The Corporation as Vital Democratic Participant

By 1979, Mobil was more unequivocally than ever encouraging an understanding of corporate participation in the marketplace of ideas as imperative if vital information was going to reach the American people. “Only by knowing all the facts can Americans make informed judgments,” one of its op-ed spots said, contending that legislators, government officials, and the press would not supply all the facts that corporate contributors like Mobil could provide. In performing that function, Mobil maintained, its ultimate purpose was advancing democratic decisionmaking: “Once the people are informed, they, through their government, can make the necessary decisions to balance environmental concerns on the one hand and energy needs and related economic problems on the other.”[162] Mobil’s op-ed spots were argued by columnist Colman McCarthy not to be informative contributions to democratic processes but only variations on the gasoline advertising that it had used in the past. “The old bunk had no pretensions: ‘Buy our gas, we want your money,’ ” he wrote. “The new bunk of Mobil says:

Buy our viewpoint, we want your mind."[163] Mobil, however, viewed its role in disseminating informative messages as such a legitimate one that it even considered purchasing its own newspaper in the late seventies, looking into the *Oakland Tribune* and *Denver Post* when they were up for sale, and the *Long Island Press* after the Newhouse chain decided to close it. "What we're interested in is what kind of news or information is lacking so far as the public is concerned," Schmertz told *The Washington Post* while the company was considering the *Long Island Press* purchase.[164] In the end, Mobil decided against buying a newspaper because it was not convinced it could run one profitably enough.[165]

In one late-1979 op-ed spot, Mobil published what could serve as a manifesto for its efforts to justify corporate speech as a vital participant in democratic processes protected by the First Amendment. The statement summarized the core assertions of Mobil's editorial-advocacy framing of the corporation as politically engaged citizen: "Mobil provokes, needles, challenges . . . to stir free-wheeling dialogue in the public prints. Saying what we think needs saying on issues that matter to people. Inflation. Jobs. Energy. Environment. . . . Voices of business balance other voices. Stifling any voice distorts the democratic process. The people must be able to weigh all the evidence . . . so future decisions in our participatory democracy will be based on the noblest wisdom of the past — the First Amendment."[166]

Thus, Mobil continued to emphasize its theme of the corporation as vital democratic participant, particularly through exercise of First Amendment rights, in the final years of the seventies. Though the manner in which Mobil expressed its prominent themes in the editorial-advocacy campaign evolved to some extent over the course of the decade, the campaign consistently maintained the essence of those themes throughout the 1970s. Above all, Mobil continued through its various themes to construct its "super theme" or dominant frame of the corporation as politically engaged citizen. And, as in the *Bellotti* decision, Mobil's vision ultimately proved symbolically compatible with the reasoning of the Supreme Court on the appropriate relationship between the corporation and society in the later corporate-speech cases of the decade.

CENTRAL HUDSON V. PUBLIC SERVICE COMMISSION

The decision in *Central Hudson v. Public Service Commission* was handed down by the U.S. Supreme Court in the summer of 1980. Yet the roots of that landmark corporate-speech decision extended back to the beginnings of the decade's first energy crunch. At the height of the energy crisis resulting from the Arab oil embargo brought on by the 1973 Arab-Israeli war, the Public Service Commission of the State of New York had grown concerned that fuel supplies might be insufficient to meet utility customer demands for the winter of 1973-74. In December 1973 the Commission issued a ban on advertising by utility companies that promoted consumption of electricity. Seven years later, after working its way through the lower courts, the controversy over that ban reached the Supreme Court as the *Central Hudson* case. The Court's decision in the case established a landmark balancing test for determining whether a government regulation of commercial speech (expression promoting products or services) violated First Amendment protection for such speech.[167]

The ramifications of the decision went well beyond "speech which does 'no more than propose a commercial transaction,' "[168] however, dealing as the case did with arguably the most critical political debate of the period: How the nation should address the energy crisis that caused so much economic disruption and suffering during the seventies. "Our dependence on foreign oil is a clear and present danger to our national security," President Carter told Americans in his State of the Union address just five months before the *Central Hudson* decision was handed down.[169] Even though Justice John Paul Stevens voted with the majority in the decision, he refused to join the characterization of the speech in question as commercial. In his concurring opinion, he argued that the New York regulation represented a suppression of corporate *political* speech vital to democratic processes because the banned promotional advertising very well could address crucial questions being considered by political leaders.[170]

At the time the ban was imposed, Central Hudson Gas and Electric, the corporate utility that later brought the lawsuit that would reach the Supreme Court, conceded there was real doubt that fuel supplies for electric generation were adequate even to maintain existing electrical service. Three years later, however, the utility company urged the

Public Service Commission to lift the ban on the grounds that the energy crisis had eased and that the Supreme Court ruling in *Virginia Pharmacy Board v. Virginia Consumer Council*[171] made the utility ad ban unconstitutional. The Commission disagreed and continued the ban, maintaining it was needed to avoid aggravating the level of U.S. dependence on foreign oil and to support energy-conservation efforts. Central Hudson challenged the ruling in New York courts but the Court of Appeals (the state's highest court) ruled that promotional advertising by electric companies conveyed no information of value to consumers because there was no competitive shopping for electricity and that such advertising's potential for exacerbating energy shortages constituted a compelling justification for the ban. The utility company appealed to the U.S. Supreme Court, arguing that its advertising provided consumers with information of value that was entitled to substantial First Amendment protection.[172]

In June 1980, the Supreme Court ruled 8-1 that the Commission's ban on energy promotion was not justified, despite the national interest in conserving energy, because the ban was more extensive than necessary. "In view of our country's dependence on energy resources beyond our control, no one can doubt the importance of energy conservation," Justice Powell wrote in the majority opinion, declaring that even so, the ban "reaches all promotional advertising, regardless of the impact of the touted service on overall energy use." For example, Powell said, the ban as maintained by New York prevented utility companies from promoting electric services that could reduce energy usage by shifting demand from less efficient sources. "To the extent that the Commission's order suppresses speech that in no way impairs the State's interest in energy conservation," he wrote, "the Commission's order violates the First and Fourteenth Amendments and must be invalidated."[173]

In contrast to the *Bellotti* case just two years before, the narrative represented by the *Central Hudson* opinion and briefs involved virtually no discourse on the nature of corporate personhood. Clearly, that theme was rendered irrelevant to the debate by the *Bellotti* Court's reframing of the essential question in First Amendment jurisprudence related to corporate speech. After that definitive ruling entered the case law, the struggle for symbolic meaning shifted almost completely to questions concerning the nature of the appropriate relationship between society and the corporation. With the question of corporate personhood removed from the discourse, the debate represented by competing rationales on the broad theme of the corporation-society relationship would grow more prominent and contentious.

Society and the Corporation in Central Hudson

When the *Central Hudson v. Public Service Commission* case reached the Supreme Court, Justice Rehnquist would remain unchanged in his *Bellotti* position that the corporation represented an economic entity that should be barred from the political sphere in the greater social interest. None of the other justices joined him in that assertion, however. Outside of Rehnquist's dissent, the greatest difference among the justices in the *Central Hudson* case was Justice Stevens' argument in his concurring opinion that the New York regulation in question should be struck down as an unconstitutional infringement not of commercial speech (product advertising) — as it was characterized in the majority opinion — but of corporate speech designed to influence political and social outcomes.

In its brief submitted to the Court in *Central Hudson*, the State of New York depicted the speech in question as serving only the utility corporation's desire "to sell more electricity" rather than any broader societal concern. To provide constitutional protection for such speech, the government argued, would work against the interests of a democratic society by diluting the force that First Amendment protection was intended to provide for the political speech of individuals. New York had sought to avoid such dilution of the First Amendment, the brief continued, by affording the speech in question by corporations a limited measure of protection "commensurate with its subordinate position in the scale of First Amendment values, while allowing modes of regulation that might be impermissible in the realm of noncommercial expression." The power company's pursuit of its profit-driven impulse in this case, the brief said, reflected complete disregard for society's pressing need to conserve energy. Such assertions in effect rejected themes that were prominent in the corporate-advocacy messages, such as the corporation as responsible citizen, as voice of reason, and as societally concerned. "In these circumstances, promotion of electric usage by electric utilities will simply exacerbate the pressure for spiraling prices," the government maintained. "When national policy requires energy conservation, the promotion of electricity by regulated public utilities provides totally misleading signals."[174]

The brief filed by the attorneys for Central Hudson Gas and Electric argued that its speech interests were not limited to commercial purposes and self-interest because it was seeking to address "interests of the energy-consuming public." It contended that New York had banned "speech which conveys information of great importance to the consumer of energy and touches closely on vital societal interests." The corporate brief depicted the utility corporation's speech in language similar to the corporate-advocacy messages of Mobil, declaring that it was the sort of expression intended to be protected by the First Amendment in its role of shielding "the free flow of information from the efforts, however well intentioned, of governmental officials to prescribe what is 'good' or 'bad' for the public to know." Rather than the corporation disregarding interests of society, the brief contended that this was a case of the government paying "insufficient attention to societal values — primarily those of the energy-consuming public." The Central Hudson corporate brief maintained that utility companies represented a vital source of socially useful information.[175]

The amicus curiae brief filed by Edison Electric Institute, a national association of electric utility companies, also stressed the theme of government regulation of corporate speech depriving society of critically needed information. "This ban imposes a significant restriction on the utilities' freedom of speech as well as on the public's ability to gain information on a subject of vital importance to them," the Institute's brief declared.[176] This representation of the relationship between the corporation and society shared commonalities with the corporate-advocacy messages that constructed the corporation as functionally and usefully integrated into society — if the government did not interfere: "No beneficial public purpose can be served by impeding the flow of information on energy sources within society."[177] Long Island Lighting Company, another New York State utility company, was even harsher in its amicus curiae brief in representing government as obstructing the democratic interests of Americans. "Instead of respecting the basic notion that, whenever possible, the flow of truthful information should be encouraged in a free society to permit affected individuals to exercise an informed choice among lawful alternatives," the brief asserted, "the [New York Public Service] Commission has chosen to stifle and manipulate the flow of information." Long Island Lighting went so far as to contend that the government's interest was not so much conservation as social control: "Apparently, the Commission believes that by cutting off the flow of truthful information . . . [it] can affect the behavior pattern of New Yorkers in a manner which the Commission . . . believes is best for them. However, Americans are not rats in a B.F. Skinner experiment."[178]

When the Supreme Court issued its opinion in the *Central Hudson* case, however, it did not deny that the Public Service Commission ban directly related to the substantial state interest in conserving energy — only that the ban was more extensive than necessary to further that interest. "Our decision today in no way disparages the national interest in energy conservation," Justice Powell insisted in the majority opinion. Nevertheless, he said, the ban violated the First Amendment because the speech regulated "not only serves the economic interest of the speaker, but also assists consumers and furthers the societal interest in the fullest possible dissemination of information." While thus constitutionalizing the relationship between the economic interests of corporations and the wider interests of society, Powell also attempted rather ambiguously to maintain that the Court was not granting the speech in question the full First Amendment protection of political speech. The *Central Hudson* decision, he said was not providing "broad constitutional protection to any advertising that links a product to a current public debate" but rather ruling that "utilities enjoy the full panoply of First Amendment protections for their direct comments on public issues."[179]

Justice Stevens, however, saw no problem in providing full First Amendment protection to the speech at issue in the case and said in a lengthy concurring opinion that was precisely the basis on which he voted to strike down the New York regulation. Justices William Brennan and Harry Blackmun wrote shorter concurrences in which they indicated basic agreement with Stevens' position. In his articulation of that position, Stevens said the New York regulation curtailed "expression by an informed and interested group of persons of their point of view on questions relating to the production and consumption of electrical energy — questions frequently discussed and debated by our political leaders."[180]

Only Justice Rehnquist in that case sought to maintain the rationale that the interests of business corporations must be distinguished from the wider interests of society, much as he had done in *Bellotti*. "The Court errs here in failing to recognize that the state law is most accurately viewed as an economic regulation and that the speech involved (if it falls within the scope of the First Amendment at all) occupies a significantly more subordinate position in the hierarchy of First Amendment values than the Court gives it today," Rehnquist declared. Not only did the energy corporations affected by the New York ban have the special economic advantages granted by government to the corporate form, he noted, they also enjoyed state-endowed monopoly domination of their respective markets. Referring to the 1976 *Virginia Pharmacy Board v. Virginia Consumer Council* decision,[181] Rehnquist emphasized, "I remain of the view that the Court unlocked a Pandora's Box when it 'elevated' commercial speech to the level of traditional political speech by according it First Amendment protection. . . . For in a democracy, the economic is subordinate to the political, a lesson that our ancestors learned long ago, and that our descendants will undoubtedly have to relearn many years hence."[182]

CONSOLIDATED EDISON V. PUBLIC SERVICE COMMISSION

During roughly the same time frame as *Central Hudson*, another New York utility corporation successfully asserted related First Amendment interests in the case that culminated before the Supreme Court as *Consolidated Edison v. Public Service Commission*.[183] Consolidated Edison Company of New York Inc., which provided electric, gas, and steam service to more than three million customers in the New York City area, in early 1977 had included an insert with its utility bills promoting the company's views that the benefits of nuclear power outweighed the risks and thus would further the nation's independence from foreign energy sources. When Consolidated Edison later refused to include a bill insert featuring a rebuttal on nuclear power by The National Resources Defense Council, the environmental group complained to the state's Public Service Commission. The Commission responded by banning the use of such bill inserts by utility companies to communicate their opinions or viewpoints on controversial public-policy issues. The Commission argued that utility customers were a captive audience and that it was unfair to subject them to such messages through their utility bills.

The New York Court of Appeals found the ban a valid time, place, and manner restriction, rejecting Consolidated Edison's argument that the utility industry should be free to contribute on the national public debate on energy-policy issues.[184] When the U.S. Supreme Court accepted Consolidated Edison's appeal of the decision, the government argued that political messages could disrupt the utility billing process and deprive utility customers of service-related information by encroaching upon the limited space available in the billing packet. Further, the government reasoned, allowing utility-company propaganda to be included with bills would force ratepayers to pay for the dissemination of views with which they might not agree because ratepayers' payments were used to pay for postage, envelopes, assembling billing lists, and other costs associated with the billing and mailing process.[185] In the end, New York's arguments were rejected by the U.S. Supreme Court, leaving the government winless in every corporate-speech case that had come out of the seventies.

Justice Powell once again wrote the Supreme Court's majority opinion in the *Consolidated Edison* decision, which agreed with Consolidated Edison's contention that bill recipients were free to discard inserts without reading them. "Even if there were a compelling state interest in protecting consumers against overly intrusive bill inserts, it is possible that the State could achieve its goal simply by requiring Consolidated Edison to stop sending bill inserts to the homes of objecting customers," Powell wrote. The Court said that billing envelopes could not be considered limited space the way that broadcast frequencies were because envelopes were not a "scarce, publicly owned resource . . . broadcasting on a single frequency" and that the Commission could spare consumers from paying for the utility company's political messages by excluding the cost of the bill inserts from the utility's rate base.[186]

As in the *Central Hudson* case, the briefs and opinion in *Consolidated Edison* reflected a dramatic shift in thematic emphasis to the question of the relationship between society and the corporation. The focus on the nature of corporate personhood that was so prominent in the legal discourse related to the *Bellotti* case two years previous simply was not a factor in the *Consolidated Edison* briefs and majority opinion. A brief filed in the *Consolidated Edison* case by the U.S. Chamber of Commerce triumphally declared that *Bellotti* "laid to rest the myth that the modern business organization, whether or not incorporated, is persona non grata in the marketplace of ideas."[187]

Society and the Corporation in Consolidated Edison

In the final corporate-speech case of the decade, the brief submitted to the Court by the State of New York depicted the use of utility-bill inserts to promote corporate views on political and social issues as "tantamount to taking advantage of a captive audience, since the consumer cannot avoid receiving the literature with the utility's message." The government brief contended that granting corporations the right to impose upon citizens in that way was not in the best interests of society because it empowered corporate speech over individual speech in the marketplace of ideas. A utility company's billing correspondence "should be used . . . to convey noncontroversial and useful information that will create a better informed public. It should not become a vehicle for dissemination only of the company's views on controversial matters of public policy," argued the government. It rejected the corporate contention that the insert ban impeded the free flow of information intended by the First Amendment, asserting that the ban instead sought to prevent corporations from "monopolizing the unique utility bill insert medium." Nothing in the ban prevented corporations from expressing their opinions in a variety of other media forums that were open to contributions from all members of society in general, the government declared.[188]

In the brief filed by the Consolidated Edison Company, it asserted an expansive role for the corporation in society, representing the corporation as responsible citizen, societally concerned, and a vital democratic participant. Because the utility industry was integrally involved in so many energy issues that were the focus of national debate, the corporate brief argued, it was essential to democratic processes that corporate speech "remain unfettered if the public is to be fully informed." In the way that Consolidated Edison characterized the government regulation at issue as interference with the rights of both corporations and individuals, the brief read something like a *New York Times* Mobil op-ed message. The New York ban on bill inserts was "specifically directed to communications . . . [on which] the need for unfettered discussion is the greatest and governmental interference in the free flow of information and ideas is most harmful," it said.[189]

Mobil in fact did contribute directly to the legal discourse in the *Consolidated Edison* case, filing its own amicus curiae brief. In the same style in which it constructed its op-ed messages, Mobil depicted the regulation as an imposition upon American citizens. "The sweeping, governmental ban on speech concerning matters of governing importance at issue in this case constitutes a frontal assault on the core of the First Amendment," it pronounced. "The issues involve not only the right of expression but the right of citizens to have unfettered access to informed viewpoints on public policy issues currently the subject of intensive debate." The brief touched on Mobil's major themes of corporation as responsible citizen, as voice of reason, as societally concerned, and as vital democratic participant, and even cited a number of the company's *Times* advocacy messages.[190]

A number of other corporate parties weighed in on the *Consolidated Edison* case with briefs that emphasized concern for societal interests and democratic processes and how this concern had particularly heightened during the seventies. "As questions of energy supply and distribution have moved to the forefront of national attention, the freedom of utilities to participate in the resulting public debate has gained in significance," said the Edison Electric Institute.[191] Pacific Gas and Electric, a West Coast corporation, asserted that utility companies had a responsibility to communicate with customers "on many subjects that may well be considered by some segments of society to be 'controversial' . . . [but] are, nevertheless, genuine public issues often debated during this current energy crisis. . . . The First Amendment mandates that there be a free flow of information from all sources, including utilities, without governmental invasion of utility bills."[192] Observing that advocacy advertising by corporations had grown substantially in the seventies to become "a commonplace occurrence," the U.S. Chamber of Commerce declared: "This activity is the natural and inevitable result of the evolution of the modern business organization, especially the modern business corporation. . . . It is precisely because modern business organizations have evolved into social institutions which are so intimately interwoven into the American socio-economic-political fabric that they have increased their involvement in recent years in the public affairs arena."[193]

The majority opinion for the 7-2 decision in *Consolidated Edison*, again written by Justice Powell, rejected assertions of any broader societal interest being served by New York's regulation on corporate speech in bill inserts. Powell stated flatly that "the restriction on bill inserts cannot be upheld on the ground that Consolidated Edison is not entitled to freedom of speech. . . . The Commission's suppression of bill inserts that discuss controversial issues of public policy directly infringes the freedom of speech protected by the First and Fourteenth Amendments."[194] Justices Rehnquist and Brennan were the only dissenters in *Consolidated Edison*. With Brennan this time writing the dissenting opinion that was joined by Rehnquist, their argument focused on the societal interest that was advanced by regulating political activity exercised through the economically advantaged corporate form. "Because of Consolidated Edison's monopoly status and its rate structure, the use of the insert amounts to an exaction from the utility's customers by way of forced aid for the utility's speech," Brennan wrote. "A public utility is a state-created monopoly. . . . This exceptional grant of power to private enterprises justifies extensive oversight on the part of the State to protect the ratepayers from exploitation of the monopoly power through excessive rates and other forms of overreaching."[195]

Thus, after three protracted legal battles so fiercely contested that they ultimately had to be decided by the Supreme Court, the decade of the seventies closed with the government rejected in its every attempt to restrict corporate speech from participation in the marketplace of ideas. The dominant frames of the Mobil corporate-advocacy discourse and legal discourse were not identical, but they certainly did not contradict each other. To be sure, Mobil's formal role in the landmark corporate-speech cases did not go beyond friend-of-the-court participation and championing corporate-speech rights in its op-ed spots. Mobil was not a litigating party in any of the cases. No direct causal connection between Mobil's advocacy efforts and the outcomes of the early corporate-speech cases is evident.

By declaring in broad terms that corporate speech was no different than speech produced by individuals, however, the Court in effect embraced corporate speech in the very manner as Mobil had been advocating virtually throughout the entire decade. In the citizen's consciousness that was symbolically constructed through Mobil's advocacy messages, the corporation was represented above all as responsible citizen, as voice of reason, as societally concerned, and as vital democratic participant. The Supreme Court's corporate-speech decisions did not endow the corporation with any of those qualities in law. Neither, however, did any of the decisions find the corporation an antisocial or corrupting force that warranted being regulated out of the public sphere — despite vigorous minority arguments, particularly by Justices Rehnquist, Brennan, and White, in support of that view. If the Court did not formally grant the corporation citizenhood in the late seventies, neither did it reject the application.

CHAPTER FIVE

Corporate Speech in the '70s and Beyond

Looking back upon the 1970s, Mobil's Schmertz says today that he believes his company's editorial-advocacy campaign contributed to the expansion of corporate speech rights "in a general sense" by helping make the issue a more prominent one over the course of the decade. "And those [Supreme Court] decisions themselves established that the corporations have First Amendment Rights, and that they are as inviolate as anybody else's. And for Congress to try and make laws that inhibit corporations' free speech is unconstitutional," he said.[1] Clearly, that conclusion was reached at the Court only after it was fought determinedly for years as not in the best interests of society. Corporate interests prevailed in those battles, however, as they did in so many crucial political contests of the seventies.

The politics of big business were deeply intertwined with the major events and developments of the decade. Outspoken corporations like Mobil and forcefully engaged corporate-advocacy organizations like the Business Roundtable were key players in major debates of the era on such hot-button topics as energy problems, inflation and other economic difficulties, consumer issues, and business regulation. Big business asserted its voice in the marketplace of ideas in the seventies in many prominent and influential ways, including media discourse. Over the same period that prominent corporate voices found new ways to disseminate their advocacy messages through mass media, the mood of the nation's voters shifted to embrace the avowedly pro-business politics of Ronald Reagan by the end of the decade.

As an anxious nation struggled through the worst recession since the Great Depression, along with the shocks of failure in Vietnam and scandalous Watergate revelations, political leaders debated what should be done to right the devastated American economy. Over the course of the decade, the number of corporate advocacy messages increased, offering big business's answers to the unprecedented energy shortages and price hikes, double-digit inflation, rising unemployment, crumbling industries, and other woes of the seventies. As countless Americans suffered financial pain, and politicians scrambled for some solution, a unified voice for the nation's most powerful corporations rose in the form of the Business Roundtable. In its often successful efforts to influence major decisions in Washington, the organization both lobbied Congress and the Administration actively and produced a certain amount of advocacy discourse, particularly in the mid-seventies.

It was Mobil, however, that would take center stage in both practicing and promoting advocacy discourse. Mobil did so through a public forum that did not exist for corporate advertisers before the seventies — the corner of *The New York Times*' new op-ed page first made available for advertising in late 1970. The *Times* said it believed more voices and more opinions should be heard, and Mobil led the way in using the op-ed page to assert the corporate voice. The oil company vigorously asserted not only its arguments on the crucial political issues of the day, but the absolute right of corporations to do so as legitimate participants in the marketplace of ideas and in American democratic processes. In Schmertz's view, the imbalance perceived by big business in the marketplace of ideas early in the seventies had been shifted favorably by the end of the decade, though not as much as he would have hoped. "The imbalance was still there," he said, "but the establishment of the right of corporate speech had improved the situation substantially."[2]

It was no surprise when Mobil applauded the outcome in the *First National Bank of Boston v. Bellotti* decision as "heartening" and "much needed," while saluting its own role in the "vanguard" of the corporate free-speech movement of the seventies.[3] After all, as Sherrill noted, it was Mobil that early in the seventies decided "the First Amendment belongs to oil people too" and then played that gambit to the hilt in its *New York Times* editorial-advocacy campaign.[4] Mobil's linkage of its symbolic corporate-citizen themes with First Amendment concerns was historically significant in that its decade-long articulation of the corporation's engagement with society ultimately proved broadly consistent with the thinking of the U.S. Supreme Court's majority in its corporate-speech decisions. Although the Court did not directly expand the concept of corporate personhood in those decisions, its reasoning did serve to strengthen the role of the corporate citizen in society. By the end of the decade, the corporate voice had been more firmly established as a legitimate one in American democracy.

As with any approach to historiography, the approach taken in this study involved countless issues of selection and emphasis. Yet even though qualitative framing analysis as employed here assumes the subjective influence of the researcher in the research instrument, it does offer a relatively systematic means for structuring such decisions of selection and emphasis. It was in that respect that framing analysis provided a valuable methodological approach to guide the critical evaluation of relevant primary sources in this historical research. This approach did not eliminate the possibility of alternative readings of the corporate-speech narratives. It is, however, argued to have yielded substantial evidence supporting "one basic interpretation [as] more readily discernible, comprehensible, and memorable than others," which is the purpose of framing analysis, in Entman's articulation.[5]

Qualitative framing analysis also offers the advantage of identifying themes in language construction that may be critical to effective framing but do not lend themselves to quantification. Because this study was focused upon those sorts of themes, qualitative framing analysis offered a more fruitful approach. Additionally, this research supports the usefulness of this sort of framing analysis in historical studies of prominent mass-media voices. It is impossible now, for example, to go back and survey 1970s audiences that were exposed to the Mobil corporate-advocacy messages. Yet framing analysis of the messages themselves offers a systematic way to explore the degree of communicative power that the messages may have achieved — by identifying key themes and placing them in context to critical social and political dynamics of the period. Essentially, Mobil sought to "explain" the seventies to Americans, to construct for them answers to the woes of the period. The narratives represented by those advocacy messages offered a worried nation what was represented as the solution to the severe energy and economic crises of the period. And the vision of the corporate citizen as articulated by Mobil did in many ways come to pass in the seventies.

It is important to emphasize again that the evidence does not indicate that the respective narratives represented by the Mobil messages and the legal discourse in the Supreme Court's corporate-speech cases were causally linked. Mobil did go to great lengths to argue for corporate-speech rights in its op-ed spots, and it did contribute to the cause further through friend-of-the-court participation before the Supreme Court. However, Mobil was never a plaintiff or defendant in any of the corporate-speech litigation of the period examined. The commonalities that were present between the corporate-advocacy messages and the legal discourse in the Supreme Court's corporate-speech cases were articulated in broad terms.

Ultimately, framing analysis represents an effort to consider symbolic meaning in a systematic manner. For example, the "responsible citizen" theme prominent in the Mobil discourse was distinguished by focusing upon language that recurringly emphasized the corporation as demonstrating a significant degree of principled behavior unrelated to its own economic interests. In the case of the "voice of reason" theme, the key was language that emphasized the corporation as making decisions solely on the basis of logic and rationality. The "societally concerned" theme was distinguished by language emphasizing corporate concern with bettering the economic status of society's have-nots. The "civically engaged" theme featured language emphasizing corporate participation in a broader range of civic-improvement efforts and the "civilizing force" theme corporate support for the arts. The "vital democratic participant" theme was characterized by language equating the corporate role in democratic processes with the role of the individual citizen. The two key themes identified in the legal narratives — "corporate personhood" and "the nature of the relationship between society and the corporation" — were distinguished according to whether the language emphasized arguments on qualities comprised by corporate personhood or assertions of how corporate interests and broader social interests may or may not be compatible.

Also useful in understanding the symbolic relationship between those corporate-speech narratives is the concept of the "media package," developed by Gamson and Modigliani to help illustrate the keywords and other language devices or "condensing symbols" that are repeatedly drawn upon in a body of discourse to construct themes and frames. In that context, the advocacy messages of Mobil, as well as the arguments made in support of corporate speech rights in the Supreme Court cases, can be characterized as sponsorship activities relevant to media framing.

Such media packages can be demonstrated by developing a passage composed of quoted and paraphrased material from the discourse that was the subject of the analysis. The purpose is to help explicate the way in which the frame seeks to make sense of relevant events and suggest what is at issue.[6] To that end, such a media package for each of the three narratives that were the focus of this study is presented below. This provides further examples of the ways in which the core ideas of the corporate-speech narratives were constructed so as to encourage a particular understanding.[7]

Language devices from the Mobil corporate-advocacy discourse can be drawn together into three media packages, each roughly corresponding with the respective themes that discourse emphasized in the early, mid- and late seventies. Early in the decade, Mobil began constructing general representations of the corporation as contributing to society in a concerned, rational, constructive manner. A media package for that body of discourse could read like this:

> The modern corporation is sensitively concerned and intricately involved with society's problems and hopes. Amid all the complexities of this world, corporations today make decisions with all of society in mind, seeking a better life for people everywhere. The corporation faces facts and thinks rationally, bringing change-with-meaning to society, doing the job people are depending on, and most of all trying to establish itself as a good citizen, speaking out on public issues. Arguing the merits in a reasoned way is the obligation of anybody with a contribution to make. Like all citizens, the corporation today seeks urgently needed change through clear, contemporary thinking — reasoned, sensible, balanced approaches to problems, not unreasonable regulation based on exaggerated fears.

By midway through the decade, Mobil was shifting its themes to emphasize the corporation's role in society in a way that more pointedly constructed its role as a defender of American individuals' freedom from the excesses of government. At a time when the nation was suffering its worst economic downturn since the Great Depression and grappling for answers as to what had gone wrong, Mobil sought to place the blame on government regulation of business. That body of discourse can be represented by this sort of media package:

> Business was the driving force in America's huge leap forward in living standards in the twentieth century, responding logically and successfully to society's needs and wants. However, a regulatory counter-revolution has grown over the course of the sixties and seventies, extending the reach and powers of government far beyond adequate and reasonable limits, endangering the good life that American capitalism revolution produced. We must restore freedom to the marketplace. The struggle is beginning now. Maintaining the present living standards simply isn't good enough. All Americans must be brought up to decent living standards. Economic growth can do for the poor what Congress cannot.

By the latter years of the seventies, Mobil's messages had evolved to emphasize in more direct language than ever before a vision of the corporation as an essential participant in democratic process. In that construction, the robust debate that the First Amendment was intended to foster could not be fully realized without the corporation's active involvement. That represented Mobil's most forceful effort to frame its message in terms that went beyond energy policy and commercial concerns. That body of discourse can be distilled into a media package in this manner:

> Corporations have a duty to contribute to the enrichment of the society in which they live. Above all, the corporate citizen must participate in the public dialogue in order to help an informed public make rational judgments. This is a right and a responsibility in a pluralistic society. Only by knowing all the facts can Americans make informed judgments. Voices of business balance other voices. Stifling any voice distorts the democratic process. The people must be able to weigh all the evidence, come to their own conclusions, and press their views on their leaders. Decisions in our participatory democracy should be based on the noblest wisdom of the past — the First Amendment.

The Supreme Court, in the opinions it hands down, of course engages in legal discourse rather than advocacy messages. Yet in the corporate-speech cases can be read broad articulations of a dominant frame that accepted the corporation as a participant in democratic processes. In establishing corporate speech as no different in First Amendment law from human speech, the Court in the seventies symbolically represented the corporation as a source of meaningful political participation rather than as solely a commercial or economic entity. A media package drawn from key language in the Supreme Court corporate-speech discourse can be brought together in this manner:

> The fact that many businesses are corporate entities, rather than individuals, does not deny them First Amendment protection. The limitation is especially offensive when it applies to communications concerning basic political and economic questions before the public. Why some speakers should have limited rights in that context is not readily apparent, particularly when fundamentally the speaker is no different from others. Singling out corporate persons in such a manner is wholly inconsistent with this Court’s efforts to ensure robust and wide-open debate on political matters. Members of the public are entitled to hear the points of view of corporations, which furthers the societal interest in the fullest possible dissemination of information. The right of corporations to inform the public of their perspective on important issues is jeopardized by attempts to isolate the business sector of the American system from the political process.

The legal narrative represented by the opinions and briefs from the Supreme Court’s early decisions on corporate speech was not synonymous with that of Mobil, but the respective narratives were hardly contradictory. If the corporate-advocacy messages of the 1970s sought to symbolically establish the corporation as a viable citizen in modern democracy, that assertion was not rejected by the U.S. Supreme Court in its decisions of the period. That is not to imply that the Court literally *upheld* that assertion, of course. Mobil’s vision of the corporate citizen was not itself ever before the Court. Yet what the Court does not declare often has as much significance as what it does. At the end of the decade of the seventies, the Court had yet to articulate any rationale for contradicting the assertion that the corporation in its political speech was as legitimate a part of democratic processes as were human individuals. Mobil's framing had proven prophetic — or at the least, very well timed.

In that respect then, the reassertion of the voice of big business into the marketplace of ideas advanced considerably over the course of the seventies. To a great extent, the vision that Mobil had been promulgating through most of the decade indeed came to pass. This research did not seek to establish a causal link between the framing of corporate-advocacy messages and what related individual-level framing may have taken place in the minds of the Supreme Court justices in the corporate-speech decisions.[8] Clearly, however, the historically significant narratives represented by corporate-advocacy discourse (particularly Mobil's) and legal discourse examined herein are not incompatible with each other. Mobil's notion of what it meant to be a part of American democracy in the seventies was not radically at variance with that of the Supreme Court. The oil company shaped its advocacy campaign of the period more compellingly by plugging it into a powerful idea whose moment was about to come in constitutional law.

As the decade came to an end, the government had been rejected in its every attempt to restrict corporate speech from participation in the marketplace of ideas. By declaring corporate speech no different than speech produced by individuals, the Court in effect established corporate speech as an integral part of democratic processes and broader social discourse. In the marketplace of ideas, that meant that the corporate voice at that point in time had essentially the same status as the human voice — not because of any inherently vital contribution the corporate voice had to make but simply because it was held to be legally no different from any other voice.

BEYOND THE FRAMES

Although it is not possible to prove that the increased use of advocacy messages in the public-relations efforts of Mobil and other corporate interests during the 1970s "caused" radical changes in public opinion over the course of that period, polling data and other evidence discussed earlier does indicate that, in regard to big business in general, public sentiment did improve somewhat during that time. Yet, lobbying, campaign spending and additional activities with potential to influence public opinion that were actively practiced by corporate interests during the seventies must also be considered possible factors affecting public opinion over the period. Further, as Lipset and Schneider cautioned, public opinion on the relationship between business and government has historically been a complex one, not easily reduced to binary categorization of support for one institution over the other.[9]

Given also that the polling data reviewed by Lipset and Schneider showed at most a small improvement in public sentiment toward big business over the course of seventies, it is at least a possibility that such advocacy efforts had no substantial effect. On the other hand, that small improvement might well represent a significant swing from how far such sentiment *could* have declined if earlier trends had continued. It must be considered also that whatever the communicative power of Mobil's framing in its op-ed spots, the framing process at the individual cognitive level is influenced by other factors beyond any single media campaign. The many doubts that were cast on the sincerity of Mobil's advocacy themes by competing media accounts, for example, could have affected the way that individuals framed the oil company for themselves.

Sethi, who probably contributed more to the scholarly literature on corporate advocacy messages than anyone in the seventies, did observe that without an accompanying change in the behavior of business institutions, some advocacy efforts might represent little more than expensive noise in the marketplace of ideas. Yet he put forth that proposition in the context of possible immediate effects of specific, short-term advocacy campaigns. He warned that the effects of corporate advocacy campaigns over the longer term appear to represent much more cause for concern because "their cumulative effect can be considerable." By constantly repeating such advocacy messages over an extended period of time — in, for example, the way that Mobil did in the seventies — a corporation will have a greater probability of winning support for its arguments, "regardless of the inherent accuracy or objectivity of the message or its information content." Further, if numbers of corporations pursued such advocacy campaigns over a period of time, the cumulative effect could well be to "squeeze out or sharply reduce the expression of alternative viewpoints on important issues affecting society."[10]

Even if the effect of corporate advocacy efforts cannot be isolated from other factors sufficiently to establish that those efforts succeeded by themselves in terms of their specific policy objectives in the 1970s, it is most difficult to argue that they failed. So many of the major changes that Mobil in particular called for during the 1970s in its op-ed messages eventually came to pass, such as deregulation of oil and natural gas prices, revision of auto-emission standards, construction of the Alaska pipeline, and greater use of coal in power plants. Certainly, the advertising industry considered Mobil's op-ed campaign of the 1970s to be groundbreaking, influential, and successful, as did Mobil itself.

We can assume that advocacy media campaigns by corporate interests represent little threat to democratic processes only if we ignore the fact that big business did indeed make significant political gains over the course of the seventies — during the same period in which Mobil and other corporate interests began using advocacy media campaigns in greater numbers and in more ways than ever before. Correlation does not necessarily equal causation, of course, but the stakes are too high to dismiss the possible influence that corporate advocacy efforts may have on democratic processes. For a century, this concern has been deeply grounded in American law, which was the central point in Justice Rehnquist's firm dissents to every corporate speech decision in the decade of the 1970s. Yet at the same time that Mobil in particular was advocating that corporations should be as free as individuals to participate in democratic processes, the first three landmark corporate-speech decisions in the history of the Supreme Court produced majority decisions that for all practical purposes agreed with Mobil.

It might be argued that because advocacy efforts like Mobil's in *The New York Times* did not technically require the specific protections provided by the late-seventies Supreme Court corporate-speech decisions, then those decisions were not particularly relevant to such advocacy efforts. That is, did corporate advocacy campaigns like Mobil’s even need the precedent those decisions established? Mobil’s conspicuous applause after the *First National Bank of Boston v. Bellotti*[11] decision provided a clear indication of how important it considered the ruling. While the form of expression represented by Mobil’s op-ed spots was not itself involved in any of the landmark corporate-speech decisions, such expression nevertheless benefited from those decisions. If the Court had allowed government to regulate in the public interest the sort of corporate speech involved in those decisions, then regulatory efforts likely would have been addressed at other forms of corporate speech as well. Advocacy efforts paid for by corporations — given their rapid increase in number in the seventies — very well could have been the target of such efforts. That in fact appears to have been the direction of the trend before the seventies corporate-speech rulings. The *Bellotti* decision addressed corporate speech related to political campaigns, but *Central Hudson Gas & Electric Corp. v. Public Service Commission*[12] and *Consolidated Edison Co. of New York v. Public Service Commission of New York*[13] dealt with corporate efforts to influence public opinion on matters not directly related to voting decisions. The latter case in particular focused upon corporate expression that was much closer to public-relations efforts on public policy than it was to political campaign speech.

Once the *Bellotti* precedent was in place, however, and especially after its holdings were strengthened by *Central Hudson* and *Consolidated Edison*, then attempting to regulate the sort of advocacy messages disseminated by Mobil would have seemed to hold little chance of success in the courts. If, on the other hand, the Supreme Court majority in the seventies had framed corporate speech as something different from human speech and therefore outside the realm of legitimate democratic participation, subsequent government regulatory efforts would have played out in a very different legal climate. In very basic terms, as Bateson articulated it, framing helps determine what will be considered a legitimate part of the “picture” and what will be framed as outside and less legitimate.[14] The early Supreme Court decisions on corporate speech served to push ideas of successfully regulating such speech well out of the constitutional picture.

Those decisions advanced the view that speech from a corporation should be treated no differently than speech from a human citizen. Clearly, however, Mobil did not participate in the *Times* op-ed page in the seventies in the same way as any other citizen. Very few human citizens could have afforded the cost of publishing hundreds and hundreds of advocacy messages in that prominent forum. Those who could would have had to choose to expend the required share of their own wealth in order to advance their political views. Mobil's participation in the particular marketplace of ideas represented by the *Times* op-ed page, however, was not the result of any citizen's choice to make political expenditures of his or her own, but of corporate management spending shareholder profits accumulated through the special wealth-generating advantages of the corporate form — limited liability, perpetual life, special tax provisions, etc.[15] If Mobil had wanted to participate in the *Times* op-ed page just like any other citizen, it would have simply submitted its opinion pieces to be considered through the same selection process as were all other submissions by public contributors to the page. Buying its way onto the page with far greater frequency than would have been possible in that manner, however, enabled Mobil to wield a heightened power over human individuals in the marketplace of ideas, much as the corporation wields extra power in the economic marketplace. And the success that greater volume and repetition of messages offers in the influencing of audiences is testified to infinitely every day by the mass-media practices of the modern advertising industry.

Thus, providing the corporate voice with the same status as the human voice holds critical implications for a modern democratic society, particularly regarding the extent to which corporate speakers robustly exercising their "citizenship" through constitutionally protected political expression may challenge the precepts of marketplace-of-ideas theory. According to that theory, truth will ultimately emerge if all thoughts and ideas are allowed to compete in the political marketplace. If that is indeed the manner in which that "market" works, will it then satisfactorily sort out whatever unmatched profusion of messages that corporate speakers may send forth into the competition? Will truth still ultimately win out, even when some speakers are endowed with the overwhelming economic advantages that corporations have but that human speakers do not have? Will democracy in fact move forward none the worse for having allowed the structurally advantaged corporate citizen to freely influence and potentially dominate the marketplace of ideas?

Conceptual insights for how competitors with such powerful advantages in a marketplace tend to dominate the market by narrowing it and reducing competition can be found in the seminal treatises on market economies of Adam Smith. The eighteenth-century Scottish philosopher was influential with many of the American founders. Smith's most famous work, *An Inquiry Into the Nature and Causes of the Wealth of Nations*, was published the same year that American revolutionaries declared independence, and Thomas Jefferson regarded it as the best book available on political economy.[16] Historian Joyce Appleby has written of how the Jeffersonian Republicans thought of Smith's "description of the market as a template for . . . a society of economically progressive, socially equal, and politically competent citizens."[17]

Smith's concepts emphasize openness and similar opportunities for all competitors in the economic marketplace. Yet he also stressed that the interests of the most powerful competitors may indeed work against maintaining the freedom of the marketplace. "The interest of the dealers . . . in any particular branch of trade or manufactures, is always in some respects different from, and even opposite to, that of the publick," Smith wrote. "To widen the market and to narrow the competition, is always the interest of the dealers. To widen the market may frequently be agreeable enough to the interest of the publick; but to narrow the competition must always be against it."[18] He believed that concentrated economic resources could be easily translated into political influence, something he considered similar to other commodities for which supply and demand existed.[19] Smith maintained that keeping markets free actually involved making sure powerful business interests did not use their influence to overwhelm the freedom of the market. In his view, if the most powerful business entities pursued their interests unchecked in the political arena, they would in fact come to dominate the free-market system to such a degree that it would not truly be a free market.[20]

Based on that reasoning, Smith's concepts rejected the sort of government regulation dominant at the time he was writing *Wealth of Nations*. That regulation was characterized by mercantilist policies of sanctioning monopolies, putting quotas on imports, regulating tradesmen, and restricting other aspects of economic behavior. Smith called for abandoning such regulation because it privileged the few at the expense of the many and prevented most from competing fairly in a free market. Yet he supported regulation that served to resist the narrowing of the marketplace, particularly a system of justice that emphasized liberty, competition, and fair play. In *Wealth of Nations*, he wrote that government is responsible for "protecting, as far as possible, every member of the society from the injustice or oppression of every other member of it."[21] Smith's famous and often distorted concept of the "invisible hand"[22] is better thought of not as an independent force but as a dependent variable that must be protected by government in order for it to function effectively. Smith's market works closest to the way that he conceptualized it when all parties have similar opportunities to compete in it.[23]

Broadly, this sort of reasoning is reflected in the federal legislation dating back to the Tillman and Corrupt Practices Acts of the early twentieth century that sought to prohibit corporate financial influence from involvement in elections.[24] The legislation was intended to protect democratic processes from undue influence by economic interests.[25] It also represents the cornerstone of the body of federal law on which Justice Rehnquist based his repeatedly voiced opposition to providing First Amendment protection for corporate speech. Rehnquist's arguments failed to carry the day in the early corporate-speech decisions, placing him in the minority of the vote on all three. More recently, however, Rehnquist's assertions have helped form a tenuous majority in some key Court decisions on corporate speech. Those decisions did not reverse the earlier decisions, but they did refocus the jurisprudence by establishing that corporate First Amendment rights may be considered somewhat less than those of individuals in regard to protecting certain democratic processes.

In *Federal Election Commission v. National Right to Work Committee*, decided in 1982, the Court said that "substantial aggregations of wealth amassed by the special advantages which go with the corporate form of organization" could be subject to government regulation without violating corporate speech rights.[26] The impact of that decision was relatively narrow because the specific regulation it upheld was not sweeping in its scope but only a legislative restriction on solicitation of contributors to corporate political funds.[27]

The decision in *Federal Election Commission v. Massachusetts Citizens for Life* was also relatively limited in its impact four years later, but in upholding the assertion that "resources amassed in the economic marketplace may be used to provide an unfair advantage in the political marketplace,"[28] it helped advance the rationale and precedent for the most important corporate speech decision since *Bellotti*. In 1990's *Austin v. Michigan State Chamber of Commerce*, the Court upheld a Michigan regulation addressing, in the words of the Court, "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas."[29] The decision established that government could in some ways restrict corporate spending that promoted political candidates — in ways that government cannot restrict similar spending when it is done by human individuals.

Those decisions may be seen as representing some balancing of the Court's swing to greater First Amendment rights for corporate speech in the 1970s. Even if so, the Court remains sharply divided on the subject. Government regulation of corporate speech was in fact rejected in another major decision of the eighties involving a corporate newsletter.[30] And although the Court's 2003 ruling on the Bipartisan Campaign Reform Act included holdings that accepted some regulations on corporate speech, it did so only by a 5-4 vote and with harsh dissent.[31]

Contentious debate before the Supreme Court over corporate speech is not the only respect in which the first decade of the twenty-first century is beginning to resemble that earlier decade. Problems from that time loom just as ominously today, if not more so. The federal debt, for example, which 1970s Business Roundtable advocacy messages declared would be alleviated by more pro-business, anti-government policies, instead now dwarfs what existed before a quarter-century or so of almost unbroken implementation of such policies. The president whom Mobil called for removing in the seventies remains the only president since that time to have pushed through a national energy policy that reduced the nation's oil imports.[32] And moving the nation away from that policy, as Mobil aggressively advocated, has made the United States even less energy self-sufficient. As this is being written, in the summer of 2004, gasoline prices have been rising rapidly at the pump, and the United States' deep dependence on oil from the Middle East has again grown painfully evident. This time, the nation finds itself engaged in major military operations there for the second time in little over a decade. Terrorist activity in Iraq, Saudi Arabia, Israel and other nations appears likely to keep the region in a state of war indefinitely. Although other factors are involved, the direct relationship between U.S. dependence on Middle East oil and the costly ongoing American presence in the region is undeniable.[33]

As American democracy seeks to reach decisions on these and other crucial issues it faces, should voices driven by commercial interests with wealth-generating advantages greater than individuals play a potentially disproportionate role in the marketplace of ideas? Will the best decisions actually be reached through such a process? When we consider the marketplace of ideas in terms of Adam Smith's free-market concepts, it would seem doubtful.

Of course, concerns over the potential distorting effects that corporate activity has on modern democracy extend far beyond the rise of corporate-advocacy speech and corporate-speech jurisprudence. Modern political campaigns are increasingly dominated by expensive mass-media advertising. Although the Internet offers some degree of opportunity for voices without great financial resources to disseminate political expression outside corporate channels, it does not as yet appear to have diminished corporate influence on democratic processes. Even a great many news media have become part of vast corporate operations. General Electric, for example, one of the largest corporations in existence today, has divisions that manufacture aircraft engines and home appliances and locomotives, along with divisions that practice journalism at NBC News and more than a dozen television stations in major markets across the country. The Walt Disney Company operates theme parks and resorts and disseminates news on its ABC and cable-television networks, dozens of television and radio stations, and other media outlets it owns. Ben Bagdikian has been tracking the media corporations that dominate the newspaper, magazine, radio, television, book, and movie industries since 1984 in successive editions of *The Media Monopoly*. In the first edition, his list numbered fifty. By the most recent edition (2004), that figure had shrunk to five.[34]

The implications arising from the growth of the corporate role in democratic processes over the course of the twentieth century are too numerous and far-reaching to be addressed in any single study. By devoting continued attention to the great many questions involved, scholarship can contribute to the crucial and ongoing dialogue over how democratic societies in the future will structure corporate political activity in the most beneficial manner. The modern business corporation was created by democratic societies. The nature of that creation in the years ahead will be determined through debates similar to those examined here.

The vision of the corporate citizen, as constructed in a particularly compelling way by Mobil, did in many ways come to pass in the 1970s in terms of the landmark corporate-speech decisions of the Supreme Court. Additionally, big business won considerably more victories on major legislation in Washington in the seventies than it had in the sixties, which was a goal stated unequivocally during that period by numerous corporate interests. All those developments unfolded roughly in parallel to each other over the course of the decade. If the increased dissemination of corporate-advocacy messages by Mobil and other corporate interests were only coincidental to those developments, then perhaps corporate speech represents no threat to the marketplace of ideas. This analysis submits that such coincidence is unlikely, given the evidence offered by events of the 1970s concerning the influence that corporate speech appeared to have on democratic processes. Whether or not courts and public opinion of the future further embrace the corporate citizen as no different from the human citizen may well prove the defining quality of American democracy in the twenty-first century.

This page intentionally left blank

Notes

Chapter One

[1] "Dear Mr. Sulzberger," Advertisement, *The New York Times*, 25 September 1980, sec. 1, p. 27.

[2] The case law on First Amendment rights for corporate speech derives for the most part from Supreme Court decisions beginning with *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) and continuing through some half dozen major decisions by the high court to *Austin v. Michigan State Chamber of Commerce*, 494 U.S. 652 (1990).

[3] Oscar H. Gandy, Jr., Beyond Agenda Setting: Information Subsidies and Public Policy (Norwood, N.J.: Ablex, 1982), 71.

[4] Walter Berns, "The Corporation's Song: Book and Lyrics by Hobbes, Locke, and Madison. Music by Mobil Oil?" in *Prosperity and Freedom: The Founding Fathers, Commerce, and the Corporation* (Washington, D.C.: American Enterprise Institute, 1981), 1-10. First published in *The American Spectator* 61 (1980).

[5] "Mobil Urges Protection of Constitution for Ads," *The New York Times*, 26 May 1978, sec. D, p. 13.

[6] Herbert Schmertz, *Corporations and the First Amendment* (New York: American Management Associations, 1978), 6.

[7] I. Maurice Wormser, *Frankenstein Incorporated* (New York: Whittlesey House, 1931), 7-8.

[8] James Willard Hurst, *The Legitimacy of the Business Corporation in the Law of the United States, 1780-1970* (Charlottesville: University of Virginia Press, 1970), 8.

[9] Bank of the United States v. Deveaux, 9 U.S. 61 (1809).

[10] 17 U.S. 518, 636 (1819).

[11] 38 U.S. 519 (1839).

[12] Hurst, *The Legitimacy of the Business Corporation*, 64-65, in reference to *Santa Clara County v. Southern Pacific Railroad* 118 U.S. 394 (1886); and *Minneapolis and St. Louis Railroad v. Beckwith* 129 U.S. 26 (1889).

[13] Thomas K. McCraw, "Business & Government: The Origins of the Adversary Relationship," *California Management Review* 26, no. 2 (winter 1984): 42.

[14] McCraw, "Business & Government," 41-42.

[15] George David Smith and Davis Dyer, "The Rise and Transformation of the American Corporation," in Carl Kaysen, ed., *The American Corporation Today* (New York: Oxford University Press, 1996), 39-41.

[16] Roland Marchand, *Creating the Corporate Soul: The Rise of Public Relations and Corporate Imagery* (Berkeley: University of California Press, 1998), 2-4.

[17] Scott M. Cutlip, *The Unseen Power: Public Relations, A History* (Hillsdale, N.J.: Lawrence Erlbaum, 1994), 1-3.

[18] Merle Curti, *The Growth of American Thought,* 3d ed. (New Brunswick, N.J.: Transaction, 1964), 501.

[19] Stuart Ewen, *PR! A Social History of Spin* (New York: Basic, 1996), 48-59.

[20] Hurst, *The Legitimacy of the Business Corporation*, 37.

[21] Albro Martin, "Uneasy Partners: Government-Business Relations in Twentieth-Century American History," in Robert F. Himmelberg, ed., *Government-Business Cooperation, 1945-1864*, vol. 9 of *Business and Government in America Since 1870* (New York: Garland, 1994), 233-7.

[22] Roger M. Olien and Diana Davids Olien, *Oil and Ideology: The Cultural Creation of the American Petroleum Industry* (Chapel Hill: University of North Carolina Press, 2000), 251-2, 257.

[23] Marchand, *Creating the Corporate Soul*, 8-9.

[24] Thomas K. McCraw, *Prophets of Regulation: Charles Francis Adams, Louis D. Brandeis, James M. Landis, Alfred E. Kahn* (Cambridge: Belknap Press of Harvard University Press, 1984), viii: "In the last 100 years, there have been four periods when regulation as a whole took on enhanced importance: the 1870s, the early years of industrialization; the period 1900-1916, often called the Progressive Era; the 1930s, during the New Deal; and the 1970s, when both regulation and deregulation somehow grew simultaneously."

[25] McCraw, "Business & Government," 40, 44.

[26] 24 Stat. 379 (1887); 26 Stat. 209 (1890); 34 Stat. 864 (1907); 38 Stat. 717 (1914); and 38 Stat. 730 (1914).

[27] These cases include *Munn v. Illinois*, 94 U.S. 113 (1876); *U.S. v. Trans-Missouri Freight Association,* 166 U.S. 290 (1897); *U.S. v. Northern Securities,* 193 U.S. 197 (1904); and *Muller v. Oregon,* 208 U.S. 412 (1908).

[28] *Standard Oil v. United States*, 221 U.S. 1 (1911).

[29] *United States v. American Tobacco*, 221 U.S. 106 (1911). In this case and the *Standard Oil* case, the Court also enunciated a "rule of reason" doctrine under which it allowed large firms that could establish they did not have an undue impact on competition to remain intact.

[30] Albro Martin, "Uneasy Partners," 233-234.

[31] Gerald P. Berk, "Approaches to the History of Regulation," in Thomas K. McCraw, ed., *Regulation in Perspective: Historical Essays* (Cambridge, Mass.: Harvard University Press, 1981), 187.

[32] Edward C. Kirkland, "The Robber Barons Revisited," in Robert F. Himmelberg, ed., *The Rise of Big Business and the Beginnings of Antitrust and Railroad Regulation, 1870-1900*, vol. 1 of *Business and Government in America Since 1870* (New York: Garland, 1994), 166.

[33] William Letwin, *A Documentary History of American Economic Policy Since 1789* (Garden City, N.Y.: Anchor Books, 1961), xxix-xxx.

[34] Thomas K. McCraw, *Prophets of Regulation*, 302.

[35] Marchand, *Creating the Corporate Soul*, 15-26.

[36] Ewen, *A Social History of Spin*, 73-101.

[37] Marchand, *Creating the Corporate Soul*, 41-87.

[38] Ewen, *A Social History of Spin*, 102-27.

[39] Marchand, *Creating the Corporate Soul*, 130-63.

[40] Larry Tye, *The Father of Spin: Edward L. Bernays and the Birth of Public Relations* (New York: Crown, 1998), 8-9, 193, 197.

[41] Cutlip, *The Unseen Power*, 105-113.

[42] Ewen, *A Social History of Spin*, 12-13, 131-46.

[43] Edward L. Bernays, *Crystallizing Public Opinion* (New York: Liveright, 1923), 35, 44, 100-18, 139-46.

[44] Bernays, *Crystallizing Public Opinion*, 141-3.

[45] Ewen, *A Social History of Spin*, 233-46.

[46] Arthur Selwyn Miller, *The Supreme Court and American Capitalism* (New York: The Free Press, 1968), 73-74, 85, 90-91.

[47] 301 U.S. 1, 2 (1937).

[48] Mansel G. Blackford and K. Austin Kerr, *Business Enterprise in American History*, 2d ed. (Boston, Mass.: Houghton Mifflin, 1990), 334-5.

[49] Smith and Dyer, "The Rise and Transformation of the American Corporation," 50-51.

[50] Marchand, *Creating the Corporate Soul*, 202-49; and Ewen, A Social History of Spin, 288-336.

[51] Karen S. Miller, *The Voice of Business: Hill & Knowlton and Postwar Public Relations* (Chapel Hill: University of North Carolina Press, 1999), 189-94.

[52] Howell John Harris, *The Right to Manage: Industrial Relations Policies of American Business in the 1940s* (Madison: University of Wisconsin Press, 1982), 193.

[53] Robert Griffith, "Dwight D. Eisenhower and the Corporate Commonwealth," in Robert F. Himmelberg, ed., *Government-Business Cooperation, 1945-1864*, vol. 9 of *Business and Government in America Since 1870* (New York: Garland, 1994), 100, 133-4.

[54] Jack Beatty, ed., *Colossus: How the Corporation Changed America* (New York: Broadway, 2001), 357-71, 377-81, 468-86, 489.

[55] Kim McQuaid, "Big Business and Public Policy in Contemporary United States," in Robert F. Himmelberg, ed., *Regulatory Issues Since 1964*, vol. 11 of *Business and Government in America Since 1870* (New York: Garland, 1994), 177-9.

[56] David Vogel, "The 'New' Social Regulation in Historical and Comparative Perspective," in Thomas K. McCraw, ed., *Regulation in Perspective: Historical Essays* (Cambridge, Mass.: Harvard University Press, 1981), 155-9.

[57] James Q. Wilson, "The Corporation as a Political Actor," in Carl Kaysen, ed., *The American Corporation Today* (New York: Oxford University Press, 1996), 413-22.

[58] David Vogel, *Fluctuating Fortunes: The Political Power of Business in America* (New York: Basic Books, 1989), 195, 197.

[59] Paul Rutherford, *Endless Propaganda: The Advertising of Public Goods* (Toronto: University of Toronto Press, 2000), 48-67.

[60] "The Corporate State," *The New York Times*, 4 July 1972, sec. 1, p. 16.

[61] S. Prakash Sethi, "Institutional/Image Advertising and Idea/Issue Advertising as Marketing Tools: Some Public Policy Issues," *Journal of Marketing* 43 (January 1979): 77-78.

[62] 34 Stat. 864 (1907).

[63] 43 Stat. 1074 (1925).

[64] Ann B. Matasar, *Corporate PACs and Federal Campaign Financing Laws: Use or Abuse of Power* (New York: Quorum, 1986), 7-8.

[65] Nancy Lammers, ed., *Dollar Politics*, 3d ed. (Washington, D.C.: Congressional Quarterly, 1982), 3.

[66] Lammers, *Dollar Politics*, 1.

[67] Matasar, *Corporate PACs and Federal Campaign Financing Laws*, 9; and P.L. 92-225 (1972).

[68] Jeffrey H. Birnbaum, *The Money Men: The Real Story of Fund-raising's Influence on Political Power in America* (New York: Crown, 2000), 32-33.

[69] Matasar, *Corporate PACs and Federal Campaign Financing Laws*, 10; and P.L. 93-443 (1975).

[70] Birnbaum, *The Money Men*, 33-34.

[71] See 424 U.S. 1, 19, 47 (1976).

[72] Matasar, *Corporate PACs and Federal Campaign Financing Laws*, 14-15.

[73] 435 U.S. 765, 776-7, 784, 789 (1978).

[74] 435 U.S. 765, 775-6, 783-4, 789, 806-7. The Court's decision struck down a Massachusetts statute prohibiting corporations from campaigning to

influence the outcome of referenda that did not materially affect their business interests.

[75] The New York Public Service Commission had banned promotional advertising by electric utility corporations in an effort to reduce energy consumption.

[76] 447 U.S. 557, 566 (1980): "In commercial speech cases, then, a four-part analysis has developed. At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at least must concern lawful activity and not be misleading. Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest."

[77] *Central Hudson v. Public Service Commission*, 580-1.

[78] *Central Hudson v. Public Service Commission*, 569-70. The Court said the government had failed to show that it could not utilize a more limited regulation to protect its interest in conservation — rather than banning all such promotional advertising.

[79] 447 U.S. 530 (1980). In the decision, the Court ruled that the state's Public Service Commission had infringed free speech by prohibiting public utility corporations from discussing controversial issues of public policy in inserts with monthly utility bills.

[80] 447 U.S. 530, 533, quoting 435 U.S. 765, 777.

[81] 459 U.S. 197 (1982). The Court upheld a federal campaign regulation designed to ensure that money used by corporations in political activity represented the speech interests of those whose money was involved, unanimously ruling that the interests the government sought to protect (the prevention of both actual and apparent corruption) were compelling enough to outweigh corporate First Amendment rights of association.

[82] 475 U.S. 1 (1986). The Court ruled that a Public Utilities Commission of California order granting access to a newsletter published by Pacific Gas and Electric Company violated the corporation's First Amendment rights by requiring it to associate with speech with which it might not agree.

[83] 479 U.S. 238 (1986). In this decision, the Court upheld the principle underlying the same regulation accepted in *FEC v. NRWC* four years earlier — that corporations amassing great wealth in the economic marketplace should not gain unfair advantage in the political marketplace. The Court ruled in this case, however, that the regulation did not apply to Massachusetts Citizens for Life, a nonprofit corporation devoted to ending abortion, because it was formed to disseminate political ideas rather than amass capital. The holding established a special class of ideological corporations with greater First Amendment protection than business corporations.

[84] 494 U.S. 652 (1990). The Court upheld a Michigan regulation prohibiting corporations from using general treasury funds to make independent expenditures in connection with state candidate elections, requiring that such expenditures be made from segregated funds (political action committees) raised from voluntary contributors to those funds and used solely for political purposes.

[85] *McConnell v. Federal Election Commission*, 124 S.Ct. 619 (2003).

[86] Edwin P. Rome and William H. Roberts, *Corporate and Commercial Free Speech: First Amendment Protection of Expression in Business* (Westport, Conn.: Quorum Books, 1985), vii.

[87] Daniel J.H. Greenwood, "Essential Speech: Why Corporate Speech is Not Free," *Iowa Law Review* 83 (1998): 1068.

[88] Stanley A. Deetz, *Democracy in an Age of Corporate Colonization* (Albany, N.Y.: State University of New York Press, 1992), 52, ix.

[89] James W. Kuhn and Ivar Berg, *Values in a Business Society: Issues and Analyses* (New York: Harcourt, Brace & World, 1968), vi, 2.

[90] Marilyn Friedman and Larry May, "Corporate Rights to Free Speech," *Business and Professional Ethics Journal* 5, no. 3-4 (fall-winter 1986): 19-20. In this article, Friedman and May articulated a three-part assertion of the ethical problems represented by corporate speech: "First, corporations are constituted out of human individuals whose speech is already protected. This ontologically dependent relationship creates the empirical possibility for conflict between the unrestricted speech of corporations and the free speech rights of their individual human members. Second, the potential for vast corporate wealth creates the empirical possibility that corporations can overwhelm individuals in the arena of expression. Third, corporations are not entities with either a moral or constitutional *prima facie* entitlement to the legal protection of their expression, because corporations are not politically sovereign."

[91] Aditi Gowri, "Speech and Spending: Corporate Political Speech Rights Under the First Amendment," *Journal of Business Ethics* 17, no. 16 (1998): 1849, 1853-4.

[92] Robert Weissman, "First Amendment Follies: Expanding Corporate Speech Rights," *Multinational Monitor* 19 (May 1998): 15.

[93] Randy M. Mastro, Deborah C. Costlow, & Heidi P. Sanchez, "Taking the Initiative: Corporate Control of the Referendum Process Through Media Spending and What to Do About It," *Federal Communications Law Journal* 32 (1980): 315; Allen K. Easley, "Buying Back the First Amendment: Regulation of Disproportionate Corporate Spending in Ballot Issue Campaigns," *Georgia Law Review* 17 (1983): 675; David R. Lagasee, "Undue Influence: Corporate Political Speech, Power and the Initiative Process," *Brooklyn Law Review* 61 (1995): 1347; and John S. Shockley, "Direct Democracy, Campaign Finance,

and the Courts: Can Corruption, Undue Influence, and Declining Voter Confidence Be Found?" *University of Miami Law Review* 39 (1985): 377.

[94] Edwin M. Epstein, *The Corporation in American Politics* (Englewood Cliffs, N.J.: Prentice-Hall, 1969), 7, 16, 324.

[95] Norman Barry, *Business Ethics* (First Ichor Business Book ed., West Lafayette, Ind.: Purdue University Press, 2000).

[96] Martin H. Redish and Howard M. Wasserman, "What's Good for General Motors: Corporate Speech and the Theory of Free Expression," 66 *George Washington Law Review* 235 (1998): 235-40.

[97] Cass R. Sunstein, *Democracy and the Problem of Free Speech* (New York: Free Press, 1993), 235-6.

[98] Henry N. Butler and Larry E. Ribstein, *The Corporation and the Constitution* (Washington, D.C.: AEI Press, 1995), 74-75.

[99] See Amber McGovern, "Kasky v. Nike, Inc.: A Reconsideration of the Commercial Speech Doctrine," 12 *DePaul University Journal of Art and Entertainment Law* 333 (2002); Michelle Dobrusin, "Crass Commercialism: Is it Public Debate or Sheer Profit? The Controversy of Kasky v. Nike," 24 *Whittier Law Review* 1139 (2003); Victoria Dizik Teremenko, "Corporate Speech Under Fire: Has Nike Finally Done It?" 2 *DePaul University Journal of Art and Entertainment Law* 207 (2003); J. Wesley Earnhardt, "Nike, Inc. v. Kasky: A Golden Opportunity to Define Commercial Speech — Why Wouldn't the Supreme Court Finally 'Just Do It<tm>'?" 82 *North Carolina Law Review* 797 (2004).

[100] *Kasky v. Nike, Inc.*, 27 Cal. 4th 939 (2002). In this case, Nike unsuccessfully argued that messages declared to be subject to civil litigation under the state's false-advertising laws should be considered corporate political speech.

[101] *Nike, Inc. v. Kasky*, 123 S. Ct. 2554 (2003).

[102] Rawleigh Warner, Jr., and Leonard Silk, *Ideals in Collision: The Relationship Between Business and the News Media* (Pittsburgh: Carnegie Mellon University Press, 1979), 11, 13.

[103] S. Prakash Sethi, *Advocacy Advertising and Large Corporations: Social Conflict, Big Business Image, the News Media, and Public Policy* (Lexington, Mass.: Lexington Books, 1977), 3, 15, 237, 292-3.

[104] Rawleigh Warner, Jr., *Mobil Oil: A View from the Second Century* (New York: Newcomen Society, 1966), 7, 9, 10, 12, 16.

[105] Peter Ellis Jones, *Oil: A Practical Guide to the Economics of World Petroleum* (New York: Nichols, 1988), 8. The name Mobil Oil was adopted in 1955 and was changed to Mobil Corp. in 1976 as the operation expanded into other lines beyond petroleum.

[106] Michael Gerrard, "This Man Was Made Possible by a Grant From Mobil Oil," *Esquire*, January 1978, p. 62.

[107] William N. Greene, *Strategies of the Major Oil Companies* (Ann Arbor, Mich.: UMI Research Press, 1985), 125-7, 138-40.

[108] Greene, *Strategies of the Major Oil Companies*, 126, 140-143, 149.

[109] Adrian Hamilton, *Oil: The Price of Power* (London: M. Joseph/Rainbird, 1986), 55.

[110] Herbert Schmertz with William Novak, *Goodbye to the Low Profile: The Art of Creative Confrontation* (Boston: Little, Brown and Company, 1986), 23.

[111] Gerrard, "This Man Was Made Possible," p. 143.

[112] Schmertz with Novak, *Goodbye to the Low Profile*, 133.

[113] Warner and Silk, *Ideals in Collision*, 14-16.

[114] Schmertz with Novak, *Goodbye to the Low Profile*, 134-7, 139. In later years, many of the Mobil op-ed spots would also be run on a less regular basis in other newspapers, including *The Washington Post*, *The Wall Street Journal*, *The Boston Globe*, *The Chicago Tribune*, and *The Los Angeles Times*.

[115] Warner and Silk, *Ideals in Collision*, 22.

[116] Warner and Silk, *Ideals in Collision*, 21-22.

[117] Robert L. Heath, *Strategic Issues Management: Organizations and Public Policy Challenges* (Thousand Oaks, Calif.: Sage, 1997), 208.

[118] James R. Gregory, *Marketing Corporate Image*, 2d ed. (Chicago, Ill.: NTC, 1997), 148.

[119] Robert Sherrill, "Operation Op-Ed: Mobil News That's Fit to Print," *The Nation*, 27 January 1979, p. 75.

[120] Lars Thorger Christensen and George Cheney, "Self-Absorption and Self-Seduction in the Corporate Identity Game," in Majken Schultz, Mary J. Hatch, and Mogens Holten Larsen, eds., *The Expressive Organization: Linking Identity, Reputation, and the Corporate Brand* (Oxford, England: Oxford University Press, 2000), 250.

[121] H.W. Simons, "Mobil's System-Oriented Conflict Rhetoric: A Generic Analysis," *Southern Speech Communication Journal* 48 (1983): 243-54.

[122] George Smith and Robert L. Heath, "Moral Appeals in Mobil Oil's Op-Ed Campaign," *Public Relations Review* 16, no. 4 (1990): 48-54.

[123] Heath, *Strategic Issues Management*, 215.

[124] Robert L. Heath and Richard A. Nelson, *Issues Management* (Beverly Hills, Calif.: Sage, 1986), 81.

[125] Larry A. Williamson, "Transcendence, Ethics, and Mobil Oil: A Rhetorical Investigation" (Ph.D. diss., Purdue University, 1982).

[126] Gary Kurzbard, "Ethos and Industry: A Critical Study of Oil Industry Advertising from 1974-1984" (Ph.D. diss., Purdue University, 1984).

[127] Patricia A. Davis, "Description and Analysis of Mobil Oil Corporation Advertising on the Basis of Content and Context Before, During and After the

1973-74 Oil Crisis" (Ph.D. diss., New York University, 1979), 49, 168-173, 385.

[128] Schmertz, *Goodbye to the Low Profile*, 134, 143, 145.

[129] "Mobil's Rawleigh Warner is Adman of the Year," *Advertising Age*, 29 December 1975, p. 1.

[130] "Taking a Stand on the Issues Through Advertising," *Association Management*, December 1980, p. 58.

[131] "How PR Executives Shape Corporate Advertising," *Public Relations Journal* 32, no. 11(November 1976): 32; and "Public Relations Role in Corporate Advertising," *Public Relations Journal* 33, no. 11 (November 1977): *34.*

[132] John E. O'Toole, "Advocacy Advertising Shows the Flag," *Public Relations Journal* 31, no. 11 (November 1975): 16.

[133] "The Backlash Against Business Advocacy," *Fortune*, 28 August 1978, p. 63.

[134] "Mobil's Warner Energizes Advocacy Advertising," *Ad Forum*, February 1981, p. 11.

[135] "How Good Are Advocacy Ads?" *Dun's Review*, June 1978, p. 76.

[136] "Mobil: They Speak Their Mind," *Marketing and Media Decisions*, Spring 1982, p. 87.

[137] "And He Zings 'Em Right Back," *Fortune*, October 1974, p. 47.

[138] "A Meeting With Mobil's Mr. Advocacy," *Madison Avenue*, February 1981, p. 32.

[139] "Dear Mr. Sulzberger," *The New York Times*, sec. 1, p. 27.

[140] Robert M. Entman, "Framing: Toward Clarification of a Fractured Paradigm," *Journal of Communication* 43:4 (autumn 1993): 52-53. "*Communicators* make conscious or unconscious framing judgments in deciding what to say, guided by frames (often called schemata) that organize their belief systems. The *text* contains frames, which are manifested by the presence or absence of certain keywords, stock phrases, stereotyped images, sources of information, and sentences that provide thematically reinforcing clusters of facts or judgments. [emphasis included]," Entman wrote.

[141] Quantitative approaches such as Tankard's "list of frames" method (which involves coders cataloging the incidence of pre-defined words, phrases, etc. that occur in a text) are more useful for framing studies that focus on issues such as agenda-setting. James W. Tankard, Jr., "The Empirical Approach to the Study of Media Framing," in Stephen D. Reese, Oscar H. Gandy, and August E. Grant, eds., *Framing Public Life: Perspectives on Media and Our Understanding of the Social World* (Mahwah, N.J.: Lawrence Erlbaum, 2001), 95-106.

[142] David L. Altheide, *Qualitative Media Analysis* (Thousand Oaks, Calif.: Sage, 1996), 10, 12, 23-44. Altheide's method relies less on counting than on

qualitative identification of prominent themes. To that end, Altheide's approach utilizes a twelve-step process that involves devising research questions, developing context for the sources of documents to be analyzed, examining a small number of the documents to begin developing categories to guide data collection, testing the categories on more documents, revising the categories, implementing "progressive theoretical sampling" (which refers to "the selection of materials based on emerging understanding of the topic under investigation"), collecting data, performing data analysis (which "consists of extensive reading, sorting, and searching through" the documents), comparing and contrasting extremes and key differences, summarizing findings, and integrating findings with interpretation.

[143] Framing was originally discussed in the early 1970s as a psychological concept that described the ways that individuals include, exclude, and organize experience. Gregory Bateson, "A Theory of Play and Fantasy," in *Steps to an Ecology of Mind: Collected Essays in Anthropology, Psychiatry, Evolution, and Epistemology* (New York: Ballantine, 1972), 172-93. Goffman described the psychology of framing as a process by which humans define a situation in order to order, negotiate, and manage it. Erving Goffman, *Frame Analysis: An Essay on the Organization of Experience* (New York: Harper and Row, 1974), 10-11.

[144] Gamson conceptualized the media frame as "a central organizing idea used for making sense of relevant events," which can provide a basis for exploring how readers may "understand and remember a problem." William A. Gamson, "News as Framing," *American Behavioral Scientist* 33, no. 2 (November/December 1989): 157, and Robert M. Entman, "Framing U.S. Coverage of International News: Contrasts in Narratives of the KAL and Iran Air Incidents," *Journal of Communication* 41, no. 4 (autumn 1991): 54. Gitlin defined media frames as "persistent patterns of cognition, interpretation, and presentation, of selection, emphasis, and exclusion, by which symbol-handlers routinely organize discourse, whether verbal or visual." Todd Gitlin, *The Whole World is Watching: Mass Media in the Making and Unmaking of the Left* (Berkeley: University of California Press, 1980), 7. Entman said that "framing . . . promote[s] a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described. Entman, "Toward Clarification of a Fractured Paradigm," 52-53.

[145] Frames have been found to be "as important as core facts" in influencing audiences' conceptions of political issues. Claes H. de Vreese, "The Effects of Frames in Political Television News on Issue Interpretation and Frame Salience," *Journalism & Mass Communication Quarterly* 81, No. 1 (spring 2004): 36. Framing can contribute significantly to the "reality-definition function of the media." Toshio Takeshita, "Exploring the Media's Roles in Defining Reality: From Issue-Agenda Setting to Attribute-Agenda

Setting," in *Communication and Democracy: Exploring the Intellectual Frontiers in Agenda Setting Theory*, ed., Maxwell McCombs, Don Shaw, and David Weaver (Hillsdale, N.J.: Lawrence Erlbaum Associates, 1997), 15-27. Parenti contends that the "most effective propaganda is that which relies on framing rather than on falsehood, . . . telling us what to think about a story before we have had a chance to think about it for ourselves." Michael Parenti, *Inventing Reality: The Politics of News Media* (New York: St. Martin's Press, 1993), 200. Audiences assign responsibility in political issues differently, according to whether the issues are framed episodically or thematically, Iyengar found. Shanto Iyengar, *Is Anyone Responsible? How Television Frames Political Issues* (Chicago, Ill.: University of Chicago Press, 1991), 15-16. Altering frames induced audiences to choose dramatically different options for responding to a hypothetical epidemic — even though the information they were presented in each frame was identical, in a study by Kahneman and Tversky. Daniel Kahneman and Amos Tversky, "Choice, Values, and Frames,"*American Psychologist* 39 (1984): 341-50.

[146] In this approach, changes in media discourse (through framing or other factors) are not considered to "cause" changes in public opinion in a one-way process, so much as to interact in a two-way process. Gamson and Modigliani, "Media Discourse and Public Opinion on Nuclear Power," 2.

[147] Bernays, *Crystallizing Public Opinion*, 80-97.

Chapter Two

[1] Michael Schaffer, "Stayin' Alive," *U.S. News & World Report*, 2 July 2001, 16.

[2] Patrick J. Akard, "Corporate Mobilization and Political Power: The Transformation of U.S. Economic Policy in the 1970s," *American Sociological Review* 57:5 (October 1992): 597.

[3] "Something to Celebrate," Advertisement, *The New York Times*, 17 April 1980, sec. 1, p. 21.

[4] J. David Hoeveler, Jr., *The Postmodernist Turn: American Thought and Culture in the 1970s* (New York: Twayne, 1996), xiii.

[5] Os Guinness, *The American Hour: A Time of Reckoning and the Once and Future Role of Faith* (New York: Free Press, 1993), 108.

[6] "Learning to Live with the Oil Squeeze," *Fortune*, December 1973, p. 25.

[7] Robert Sherrill, "Operation Op-Ed: Mobil News That's Fit to Print," *The Nation*, 27 January 1979, p. 1, 75. Sherrill reported that the *Times* made enough

money from the ads sold on its op-ed page to pay for the costs of publishing the rest of the page.

[8] Mark J. Green and Andrew Buchsbaum, *The Corporate Lobbies: Political Profiles of the Business Roundtable and the Chamber of Commerce* (Washington: Public Citizen, 1980), 68.

[9] Anthony J. Parish, "Oil Company Nets Surge," *The New York Times*, 24 January 1980, sec. 4, p. 1.

[10] Thomas E. Mullaney, "A Legacy of Trouble for 1970s," *The New York Times*, 11 January 1970, sec. 12, p. 1.

[11] Mullaney, "A Legacy of Trouble for 1970s," p. 2.

[12] A.H. Raskin, "Wage-Price Wheel Could Spin Faster," *The New York Times*, 11 January 1970, sec. 12, p. 12.

[13] "10-Year Summary of Financial Events," *The New York Times*, 11 January 1970, sec. 12, p. 8.

[14] "Business Outlook," *Business Week*, 3 January 1970, p. 7; and "Business Roundup," *Fortune*, January 1970, p. 25.

[15] "Pro-Business Hands Shape Regulatory Policy," *The New York Times*, 11 January 1970, sec. 12, p. 10.

[16] "12 Business Leaders Answer Questions on the Future," *The New York Times*, 11 January 1970, sec. 12, p. 35-36.

[17] Isadore Barmash, "That Angry Voice? It's a Consumer's," *The New York Times*, 11 January 1970, sec. 12, p. 29.

[18] John S. Fielden, "Making Executives of Students Will Take More than Haircut," *The New York Times*, 11 January 1970, sec. 12, p. 27.

[19] Gladwin Hill, "Industrialists Get Word: Environment," *The New York Times*, 11 January 1970, sec. 12, p. 22.

[20] "Times Will Offer Daily Forum Page," *The New York Times*, 29 July 1970, sec. 1, p. 39.

[21] Advertisement, *The New York Times*, 13 September 1970, sec. 1, p. 16.

[22] "Op. Ed. Page," *The New York Times*, 21 September 1970, sec. 1, p. 42.

[23] Robert Engler, *The Brotherhood of Oil: Energy Policy and the Public Interest* (Chicago: University of Chicago Press, 1977), 16.

[24] Robert Sherrill, *The Oil Follies of 1970-80* (Garden City, N.Y.: Anchor, 1983), 506.

[25] Ian Skeet, *OPEC: Twenty-Five Years of Prices and Controls* (New York: Cambridge University Press, 1988), 222.

[26] "How Libya Set a Stiffer Price," *Business Week*, 10 April 1971, p. 87.

[27] M.A. Adelman, *The Genie Out of the Bottle: World Oil Since 1970* (Cambridge, Mass.: MIT Press, 1995), 134.

[28] Sherrill, *The Oil Follies of 1970-80*, 190-193.

[29] "Has the Oil Industry 'Fabricated' the Energy Shortage?" Advertisement, *The New York Times*, 9 October 1970, sec. 1, p. 37.

[30] Thomas E. Mullaney, “Despite Trials, Hope is Strong,” *The New York Times*, 6 January 1974, sec. 3, p. 19-20.

[31] Zada Limerick, ed., *Reader’s Guide to Periodical Literature* (New York: H.W. Wilson, 1973), 899-900; and Zada Limerick, ed., *Reader’s Guide to Periodical Literature* (New York: H.W. Wilson, 1974), 815-818.

[32] William D. Smith, “Brooklyn Accent in Mobil Executive Suite,” *The New York Times*, 17 January 1971, sec. 3, p. 5.

[33] William D. Smith, “Pessimism Shown in Oil Meetings,” *The New York Times*, 5 May 1972, sec. 1, p. 1-2.

[34] “The Gap,” Advertisement, *The New York Times*, 11 May 1972, sec. 1, p. 45.

[35] “Energy Policy Must be Priority Policy,” Advertisement, *The New York Times*, 30 November 1972, sec. 1, p. 43.

[36] Sherrill, *The Oil Follies of 1970-80*.

[37] Rawleigh Warner, Jr., and Leonard Silk, *Ideals in Collision: The Relationship Between Business and the News Media* (Pittsburgh: Carnegie Mellon University Press, 1979), 13.

[38] Quoted in “Business Lobbying: Threat to the Consumer Interest,” *Consumer Reports*, September 1978, p. 527.

[39] Seymour Martin Lipset and William Schneider, “How’s Business? What the Public Thinks,” *Public Opinion* 1:3 (August 1978): 41.

[40] R.C. Gerstenberg, “To Tell the Truth,” *The New York Times*, 29 December 1972, sec. 1, p. 23.

[41] Mullaney, “Despite Trials, Hope is Strong,” sec. 3, p. 19.

[42] Sherrill, *The Oil Follies of 1970-80*, 191.

[43] Franklin Tugwell, *The Energy Crisis and the American Political Economy* (Stanford, Calif.: Stanford University Press, 1988), 97.

[44] Frank Aker, *October 1973: The Arab-Israeli War* (Hamden, Conn.: Archon, 1985), 123-8.

[45] P.R. Kumaraswamy, ed., *Revisiting the Yom Kippur War* (Portland, Ore.: Stanford Frank Cass, 2000), 2.

[46] Adelman, *The Genie Out of the Bottle*, 326.

[47] “Oil Crisis: It Threatens to Bring Down the West,” *U.S. News and World Report*, 14 October 1974, p. 23.

[48] Thomas E. Mullaney, “Buffeted, Not Beaten, U.S. Seeks Economic Recovery,” *The New York Times*, 5 January 1975, sec. 3, p. 19.

[49] James C. Collins and Jerry D. Porras, “More Than Profits,” in Jack Beatty, ed., *Colossus: How the Corporation Changed America* (New York: Broadway, 2001), 375.

[50] Robert Lindsey, “Economy Mars Belief in the American Dream,” *The New York Times*, 26 October 1975, sec. 1, p. 1, 48.

[51] Mullaney, “Despite Trials, Hope is Strong,” sec. 3, p. 19.

[52] Robert H. Phelps, "A Specter of Recession," *The New York Times*, 6 January 1974, sec. 3, p. 19.

[53] Engler, *The Brotherhood of Oil*, 2, 6.

[54] Steve Isser, *The Economics and Politics of the United States Oil Industry, 1920-1990* (New York: Garland, 1996), 136.

[55] "If Gasoline is Rationed — The Standby Plan," *U.S. News and World Report*, 7 January 1974, p. 17.

[56] "The Arabs' New Oil Squeeze: Dimouts, Slowdowns, Chills," *Time*, 19 November 1973, p. 88-89.

[57] "Next, the Oil Recession?" *Newsweek*, 3 December 1973, p. 86.

[58] Eileen Shanahan, "Demand for Oil Tax Challenges Mills," *The New York Times*, 6 January 1974, sec. 3, p. 21. Yet a tax on such windfall profits would not pass Congress until the spring of 1980, the delay in part because of industry opposition. See A.O. Sulzberger, Jr., "Congress Approves 'Windfall' Oil Tax," *The New York Times*, 28 March 1980, sec. 1, p. 1.

[59] Skeet, *OPEC*, 99.

[60] Sherrill, *The Oil Follies of 1970-80*, 190-191.

[61] Adelman, *The Genie Out of the Bottle*, 99-105.

[62] Ernest Holsendolph, "Earnings Soar at Mobil and Texaco; Shell Only Oil 'Major' to Report Dip," *The New York Times*, 25 January 1974, sec. 1, p. 43.

[63] Ernest Holsendolph, "Exxon Profits Up by 59%; Jackson Accuses Company," *The New York Times*, 25 January 1974, sec. 1, p. 1.

[64] Exxon, Texaco, Mobil, Standard of California, Gulf, Standard of Indiana, Shell, Continental, Atlantic Richfield, Occidental, Tenneco, and Phillips were the largest American oil companies in 1973. All were ranked in the top twenty-five of the Fortune 500 for that year. See "The Fortune Directory of the 500 Largest Industrial Corporations," *Fortune*, May 1975, p. 210.

[65] William D. Smith, "Oil Industry Profits Slip in 4th Quarter," *The New York Times*, 25 January 1975, sec. 1, p. 33.

[66] "The Fortune Directory," p. 208-211.

[67] Beatty, "A Sea of Troubles," 488.

[68] "Energy Crisis Hits Home," *U.S. News and World Report*, 25 March 1974, p. 75-78.

[69] "We're a Big Company," Advertisement, *The New York Times*, 17 January 1974, sec. 1, p. 39.

[70] "Prices in Perspective," Advertisement, *The New York Times*, 13 June 1974, sec. 1, p. 43.

[71] "In Profitability, We Slipped to 400th," Advertisement, *The New York Times*, 11 April 1974, sec. 1, p. 35.

[72] "Big Oil's Big Bucks," *Newsweek*, 24 October 1977, p. 38-39.

[73] "America Has the World's Best Highways and the World's Worst Mass Transit," Advertisement, *The New York Times*, 19 October 1970, sec. 1, p. 39.

[74] Sherrill, "Operation Op-Ed," p. 71.

[75] James R. Gregory, *Marketing Corporate Image*, 2d ed. (Chicago, Ill.: NTC, 1997), 148.

[76] Michael Gerrard, "This Man Was Made Possible by a Grant From Mobil Oil," *Esquire*, January 1978, p. 143.

[77] Herbert Schmertz, telephone interview with author, 13 April 2002.

[78] Schmertz, telephone interview with author.

[79] Roland Marchand, *Creating the Corporate Soul: The Rise of Public Relations and Corporate Imagery* (Berkeley: University of California Press, 1998), 41-87.

[80] Mobil's complete archives of its op-ed ads for the 1970s were lost in a 1996 fire. For this study, the op-ed ads were located by searching 1970s editions of *The New York Times* on microfilm at Davis Library at the University of North Carolina at Chapel Hill and at Perkins Library at Duke University.

[81] Michael Ruby and Gretchen Browne, "The Mobil Manner," *Newsweek*, 22 March 1975, p. 65.

[82] "What is U.S. Steel Doing to Help Restore Our Environment?" Advertisement, *The New York Times*, 2 November 1970, sec. 1, p. 46.

[83] "What is U.S. Steel Doing to Advance Modern Surgery?" Advertisement, *The New York Times*, 5 October 1970, sec. 1, p. 43; "What is U.S. Steel Doing to Help Grow More Food?" Advertisement, *The New York Times*, 20 October 1970, sec. 1, p. 45; "What is U.S. Steel Doing About Art and Architecture?" Advertisement, *The New York Times*, 27 October 1970, sec. 1, p. 47; and "What is U.S. Steel Doing to Toughen the Trucks that Serve You?" Advertisement, *The New York Times*, 21 September 1970, sec. 1, p. 43.

[84] "The Sugar Company, Plus," Advertisement, *The New York Times*, 27 January 1971, sec. 1, p. 37.

[85] "Texas is a Great Place to Do Business if You've Got Texans Helping You," Advertisement, *The New York Times*, 11 February 1971, sec. 1, p. 37; and "When the World's Major Currencies Are Realigned, the Bank that Manages Money Reacts," Advertisement, *The New York Times*, 23 December 1972, sec. 1, p. 25.

[86] "We Take the Work Out of Play," Advertisement, *The New York Times*, 11 May 1973, sec. 1, p. 39; and "Monsanto's Multi-Million-Dollar Legs," Advertisement, *The New York Times*, 1 August 1973, sec. 1, p. 39.

[87] "We Have a China Policy You May Not Have Heard About," Advertisement, *The New York Times*, 10 October 1973, sec. 1, p. 47.

[88] "Ogden Reports," Advertisement, *The New York Times*, 19 February 1974, sec. 1, p. 33.

[89] "Run-Thru Freights," Advertisement, *The New York Times*, 18 February 1975, sec. 1, p. 29.

[90] "Introducing the McDonnell-Douglas DC-9 Series 50 Twinjet," Advertisement, *The New York Times*, 25 February 1975, sec. 1, p. 47.

[91] "This Best-Seller Can Change Your Life Overnight," Advertisement, *The New York Times*, 27 April 1972, sec. 1, p. 43; "This Best-Seller Can Change Your Life Overnight," Advertisement, *The New York Times*, 6 July 1972, sec. 1, p. 37; "At the Sign of the Smiling Red Horse," Advertisement, *The New York Times*, 15 September 1977, sec. 1, p. 27; and "Who Needs It?" Advertisement, *The New York Times*, 20 April 1978, sec. 1, p. 23.

[92] "America Has the World's Best Highways."

[93] "Our Product is Prehistoric. We Try Not to Be," Advertisement, *The New York Times*, 13 January 1972, sec. 1, p. 41.

[94] "Snake Oil from the Oil Companies," *Consumer Reports*, February 1974, p. 125-126.

[95] Sherrill, "Operation Op-Ed," p. 74.

[96] Paul Rutherford, *Endless Propaganda: The Advertising of Public Goods* (Toronto: University of Toronto Press, 2000), 58.

[97] "Oil's New Sell," *Time*, 11 February 1974, p. 30.

[98] S. Prakash Sethi, *Advocacy Advertising and Large Corporations: Social Conflict, Big Business Image, the News Media, and Public Policy* (Lexington, Mass.: Lexington Books, 1977), 65.

[99] David L. Altheide, *Qualitative Media Analysis* (Thousand Oaks, Calif.: Sage, 1996), 31.

[100] Those categories were identified primarily by using Altheide's process of qualitative content analysis, emphasizing progressive theoretical sampling based on "emerging understanding of the topic under investigation." Altheide, *Qualitative Media Analysis*, 23-44.

[101] This analysis also drew upon Entman's four framing functions: "Frames . . . *define problems* — determine what a causal agent is doing with what costs and benefits, usually measured in terms of common cultural values; *diagnose causes* — identify the forces creating the problem; *make moral judgments* — evaluate causal agents and their effects; and *suggest remedies* — offer and justify treatments for the problems and predict their likely effects. [emphasis included] Robert M. Entman, "Framing: Toward Clarification of a Fractured Paradigm," Journal of Communication 43:4 (Autumn 1993): 7, 52. The analysis was conducted beyond the terms of categories such as a frame or story line and identifying the particular signature elements for a given frame — the metaphors, catchphrases, or other symbolic devices typically used to convey it. William A. Gamson, "News as Framing," American Behavioral Scientist 33, no. 2 (November/December 1989): 158-9. To that end, the analysis in this study emphasized the five framing devices identified by

Gamson and Modigliani as "condensing symbols that suggest the core frame." These are: "(1) metaphors, (2) exemplars, (i.e., historical examples from which lessons are drawn), (3) catchphrases, (4) depictions, (5) visual images (e.g., icons)." William Gamson and Andre Modigliani, "Media Discourse and Public Opinion on Nuclear Power: A Constructionist Approach," American Journal of Sociology 95:1 (July 1989): 2.

[102] "Our Product is Prehistoric."

[103] "Business is Bound to Change," Advertisement, *The New York Times*, 20 April 1972, sec. 1, p. 45.

[104] "Free Private Responsible Enterprise?" Advertisement, *The New York Times*, 7 September 1972, sec. 1, p. 43.

[105] "Capitalism: Moving Target," Advertisement, *The New York Times*, 12 October 1972, sec. 1, p. 46.

[106] "Surviving in a Complex World," sec. 1, p. 19; "Doughnut-Watching," Advertisement, *The New York Times*, 27 April 1978, sec. 1, p. 19; "The National Guilt Complex," Advertisement, *The New York Times*, 25 May 1978, sec. 1, p. 23; and "Liberals, Logical Allies of Business," Advertisement, *The New York Times*, 22 June 1978, sec. 1, p. 23.

[107] "Business is Bound to Change."

[108] "Is Anybody Listening?" Advertisement, *The New York Times*, 18 January 1973, sec. 1, p. 41.

[109] "Oil is Precious," Advertisement, *The New York Times*, 12 July 1973, sec. 1, p. 39.

[110] "Oil is Precious. Let's Not Waste It," Advertisement, *The New York Times*, 9 March 1972, sec. 1, p. 41.

[111] "For Every Problem There is a Solution: Simple, Neat, and Wrong," Advertisement, *The New York Times*, 16 March 1972, sec. 1, p. 47.

[112] "A Gasoline Shortage?" Advertisement, *The New York Times*, 12 April 1973, sec. 1, p. 45.

[113] "So Much to Do, So Little Time," Advertisement, *The New York Times*, 1 March 1973, sec. 1, p. 41.

[114] "The Lady was Listening," Advertisement, *The New York Times*, 10 May 1973, sec. 1, p. 45.

[115] David R. Brower, "Who Needs the Alaska Pipeline?" *The New York Times*, 5 February 1971, sec. 1, p. 31.

[116] "Put That in Your Pipeline," *The New York Times*, 23 February 1971, sec. 1, p. 36.

[117] "More Power to the People," Advertisement, *The New York Times*, 27 January 1972, sec. 1, p. 37.

[118] "Those Behind Cried, 'Forward!' and Those Before Cried, 'Back!' " Advertisement, *The New York Times*, 28 December 1972, sec. 1, p. 31.

[119] "Stagnation is Still the Worst Form of Pollution," Advertisement, *The New York Times*, 5 May 1972, sec. 1, p. 45.

[120] "To Have and to Have Not," Advertisement, *The New York Times*, 5 October 1972, sec. 1, p. 47.

[121] "If We Tell You Oil Companies Don't Make Enough Profit, You'll Have a Fit," Advertisement, *The New York Times*, 28 June 1972, sec. 1, p. 39.

[122] "We're One of the 10 Biggest Industrial Corporations in the World," Advertisement, *The New York Times*, 24 February 1972, sec. 1, p. 39.

[123] Stewart L. Udall, "The ABC's of Energy Reform," *The New York Times*, 12 July 1973, sec. 1, p. 39.

[124] H.V. Hodson, "Growth and Survival," *The New York Times*, 8 March 1972, sec. 1, p. 43.

[125] "At a Price," *The New York Times*, 13 December 1973, sec. 1, p. 46.

[126] R. Buckminster Fuller, "Energy Through Wind Power," *The New York Times*, 17 January 1974, sec. 1, p. 39.

[127] "Anticipate Charity by Developing Poverty," Advertisement, *The New York Times*, 23 January 1975, sec. 1, p. 33.

[128] "The Importance of Getting Started," Advertisement, *The New York Times*, 20 June 1974, sec. 1, p. 39.

[129] "The NAACP Needs Help," Advertisement, *The New York Times*, 4 January 1979, sec. 1, p. 19.

[130] "Motherhood, Apple Pie, and Legal Aid," Advertisement, *The New York Times*, 13 April 1978, sec. 1, p. 23.

[131] "Games at Rucker Playground are More Than That," Advertisement, *The New York Times*, 27 July 1972, sec. 1, p. 31; and "Mobil Harlem National Professional Summer Basketball Championship," Advertisement, *The New York Times*, 23 August 1973, sec. 1, p. 37.

[132] "Let the Buyer be Wary," Advertisement, *The New York Times*, 26 September 1974, sec. 1, p. 29.

[133] "212-989-7600. The Call of the Riled," Advertisement, *The New York Times*, 19 October 1972, sec. 1, p. 47.

[134] "When it's a Question of Smart Shopping, the Answer is Know," Advertisement, *The New York Times*, 3 May 1973, sec. 1, p. 43.

[135] "Endangered Species," Advertisement, *The New York Times*, 21 February 1974, sec. 1, p. 33.

[136] "What Kids Need These Days is a Good Clubbing," Advertisement, *The New York Times*, 21 April 1977, sec. 1, p. 25; and "Wanna Help Somebody be Somebody?" Advertisement, *The New York Times*, 14 June 1979, sec. 1, p. 29.

[137] "The Way These Haaren High Kids Work is an Education," Advertisement, *The New York Times*, 3 February 1972, sec. 1, p. 33; and "I'm

Determined to Get Where I Want to Go," Advertisement, *The New York Times*, 6 January 1977, sec. 1, p. 29.

[138] "Blind Spot," Advertisement, *The New York Times*, 21 November 1973, sec. 1, p. 37; and "Good (?) News From the Campus," Advertisement, *The New York Times*, 19 September 1974, sec. 1, p. 43.

[139] "A Burn Center: What Is It?" Advertisement, *The New York Times*, 15 June 1978, sec. 1, p. 23.

[140] "Training to Live," Advertisement, *The New York Times*, 7 February 1980, sec. 1, p. 23; and "The Most Vital Pipeline," Advertisement, *The New York Times*, 18 September 1980, sec. 1, p. 31.

[141] "America's Parlor Overlooks the Potomac," Advertisement, *The New York Times*, 15 March 1979, sec. 1, p. 23; and "So They Can Keep On Making Good Theatre, We Invite you to Perform at Kennedy Center," Advertisement, *The New York Times*, 19 May 1977, sec. 1, p. 23.

[142] "Saturday is West Side Day," Advertisement, *The New York Times*, 26 September 1973, sec. 1, p. 41.

[143] "Summergarden," Advertisement, *The New York Times*, 1 June 1972, sec. 1, p. 43.

[144] "You Can't Get Tickets to Some of New York's Greatest Shows. For a Great Reason," Advertisement, *The New York Times*, 3 August 1972, sec. 1, p. 33; and "Why You Can't Get Tickets to Some of New York's Greatest Shows," Advertisement, *The New York Times*, 5 July 1973, sec. 1, p. 29.

[145] "Now a Library is One of New York's Nicest Theatres," Advertisement, *The New York Times*, 6 June 1973, sec. 1, p. 45; "We Can Take Care of Tuesday, Friday, Saturday and Sunday. After That You're On Your Own," Advertisement, *The New York Times*, 21 August 1975, sec. 1, p. 35; and " 'Stop' Art," Advertisement, *The New York Times*, 22 January 1976, sec. 1, p. 35.

[146] "What's a Nice Mobil Station Doing in a Place Like This?" Advertisement, *The New York Times*, 16 February 1978, sec. 1, p. 23.

[147] "A New Masterpiece Theatre Season Opens Sunday. Can You Spot the Emmy Candidates?" Advertisement, *The New York Times*, 3 October 1974, sec. 1, p. 43.

[148] "*Masterpiece Theatre* 10th Anniversary Season," Advertisement, *The New York Times*, 11 September 1980, sec. 1, p. 19.

[149] "Festival '76," Advertisement, *The New York Times*, 18 March 1976, sec. 1, p. 41.

[150] "No, Lady Marjorie, Emmy is Not the New Parlor Maid," Advertisement, *The New York Times*, 6 June 1974, sec. 1, p. 37.

[151] Quoted in Irwin Ross, "Public Relations Isn't Kid-Glove Stuff at Mobil," *Fortune*, September 1976, p. 110.

[152] Quoted in Ross, "Public Relations Isn't Kid-Glove Stuff at Mobil," p. 110.

[153] Nicholas von Hoffman, "Brought to You By," *The Washington Post*, 18 November 1977, sec. C, p. 12.

[154] Gerrard, "This Man Was Made Possible," p. 64, 145; and Sherrill, "Operation Op-Ed," p. 1.

[155] "Growth is Not a Four-Letter Word," Advertisement, *The New York Times*, 17 February 1972, sec. 1, p. 37.

[156] "Growth is Still Not a Four-Letter Word," Advertisement, *The New York Times*, 28 October 1976, sec. 1, p. 45.

[157] "For Every Problem There is a Solution: Simple, Neat, and Wrong," Advertisement, *The New York Times*, 16 March 1972, sec. 1, p. 47.

[158] "The Profits of Doom," Advertisement, *The New York Times*, 5 April 1973, sec. 1, p. 45.

[159] "Growth is the Only Way America Will Ever Reduce Poverty," Advertisement, *The New York Times*, 13 April 1972, sec. 1, p. 43.

[160] "Lamenting the Fallen Sparrow," Advertisement, *The New York Times*, 13 September 1973, sec. 1, p. 47.

[161] "Are Oil Profits Big?" Advertisement, *The New York Times*, 24 January 1974, sec. 1, p. 37.

[162] "An Answer that Raises Questions," Advertisement, *The New York Times*, 8 December 1977, sec. 1, p. 23.

[163] In his dissenting opinion in *Abrams v. United States*, 250 U.S. 616, 630 (1919), Justice Oliver Wendell Holmes articulated the reasoning underlying this enduring concept in law: "The best test of truth is the power of the thought to get itself accepted in the competition of the market." In his First Inaugural Address, Thomas Jefferson extolled "the safety with which error of opinion be tolerated where reason is left free to combat it." John Gabriel Hunt, ed., *The Essential Thomas Jefferson* (New York: Gramercy, 1984), 199. This concept — that truth naturally overcomes falsehood when they are allowed to compete — derives from Enlightenment philosophy regarding the value of free exchange of ideas. The most influential early articulation of the marketplace-of-ideas concept was John Milton's 1644 essay *Areopagitica*, in which he argued against licensing and censorship of publishing in England on the principle that free competition of ideas fostered the search for truth. The concept has been prominent in American discourse on freedom of speech and press since before the nation's founding. See Jeffrey A. Smith, *Printers and Press Freedom: The Ideology of Early American Journalism* (New York: Oxford University Press, 1988), 31-41. For a discussion of the way the concept has been used by the Supreme Court in many free-speech cases, see W. Wat Hopkins, "The Supreme Court Defines the Marketplace of Ideas," *Journalism & Mass Communication Quarterly* 73, no. 1 (Spring 1996): 40-52.

[164] "Musings of an Oil Person," Advertisement, *The New York Times*, 28 February 1974, sec. 1, p. 37.

[165] "Musings of an Oil Person," Advertisement, *The New York Times*, 18 July 1974, sec. 1, p. 35.

[166] Tom Wicker, "Grim Thoughts from the Gas Line," *The New York Times*, 19 February 1974, sec. 1, p. 33.

[167] Alfred E. Kahn, "The Energy Crisis: Oil's Role," *The New York Times*, 25 February 1974, sec. 1, p. 27.

Chapter Three

[1] Thomas E. Mullaney, "A Legacy of Trouble for 1970s," *The New York Times*, 4 January 1976, sec. 3, p. 17-18.

[2] David Pauly and William J. Cook, "Now, an Oil Glut," *Newsweek*, 19 September 1977, p. 85.

[3] Susan Fraker, "Energy: A Year Later," *Newsweek*, 24 April 1978, p. 36.

[4] "Business' Most Powerful Lobby in Washington," *Business Week*, 20 December 1976, p. 60.

[5] *Business Roundtable History*. Available [Online]: <http://www.businessroundtable.org/aboutUs/history.html> [10 July 2004].

[6] Mark J. Green and Andrew Buchsbaum, *The Corporate Lobbies: Political Profiles of the Business Roundtable and the Chamber of Commerce* (Washington: Public Citizen, 1980), 70.

[7] Eileen Shanahan, "Antitrust Bill Stopped by a Business Lobby," *The New York Times*, 16 November 1975, sec. 1, p. 1, 74.

[8] Steven Rattner, "Big Industry Gun Aims at the Hill," *The New York Times*, 7 March 1976, sec. 3, p. 3.

[9] Thomas Ferguson and Joel Rogers, "The Knights of the Roundtable," *The Nation*, 15 December 1979, p. 621.

[10] Green and Buchsbaum, *The Corporate Lobbies*, 89.

[11] "Knights of the Roundtable," *Business Week*, 21 October 1988, p. 39-44.

[12] Frances Cerra, "Battle Still Rages Over Consumer Unit," *The New York Times*, 15 May 1977, sec. 1, p. 1.

[13] Ferguson and Rogers, "The Knights of the Roundtable," p. 621.

[14] Hedrick Smith, "The Ball Passes to a Democrat," *The New York Times*, 9 January 1977, sec. 3, p. 1.

[15] Thomas E. Mullaney, "Business Assays Carter," *The New York Times*, 9 January 1977, sec. 3, p. 1.

[16] "Now, Business Shows Its Muscle in Washington," *U.S. News and World Report*, 10 July 1978, p. 19.

[17] Cerra, "Battle Still Rages Over Consumer Unit," sec. 1, p. 1, 25.

[18] "Making the Case for Consumers," Editorial, *The New York Times*, 31 May 1977, sec. 1, p. 28.

[19] "The Last Thing Consumers Need is Another Government Agency," Advertisement, *The New York Times*, 19 May 1977, sec. 2, p. 7.

[20] Charles H. Percy, "Of Consumer Advocacy and a 'Highly Biased' Poll," *The New York Times*, 9 June 1977, sec. 1, p. 20.

[21] Cerra, "Battle Still Rages Over Consumer Unit," sec. 1, p. 1, 25; and Seth S. King, "Consumer Unit Backers Try Again," *The New York Times*, 24 October 1977, sec. 1, p. 10.

[22] Philip Shabecoff, "House Rejects Consumer Agency," *The New York Times*, 9 February 1978, sec. 1, p. 1.

[23] Walter Guzzardi, Jr., "Business is Learning How to Win in Washington," *Fortune*, 27 March 1978, p. 53.

[24] Thomas Ferguson and Joel Rogers, "Labor Law Reform and Its Enemies," *The Nation*, 6-13 January 1979, p. 1.

[25] Patrick J. Akard, "Corporate Mobilization and Political Power: The Transformation of U.S. Economic Policy in the 1970s," *American Sociological Review* 57:5 (October 1992): 605.

[26] Robert D. Hershey, Jr., "Bill to Bar Americans' Role in Boycott of Israel Ready," *The New York Times*, 21 March 1977, sec. 1, p. 43, 46; and Adam Clymer, "Accord Reached on Bill Seeking to Foil Boycott," *The New York Times*, 4 May 1977, sec. 4, p. 1, 13.

[27] Agis Salpukas, "How Business Grappled With the Arab Boycott," *The New York Times*, 21 August 1977, sec. 3, p. 1.

[28] Martin Tolchin, "Civil Service Plan Soon to Take Shape," *The New York Times*, 20 November 1978, sec. 1, p. 21.

[29] "You Should Know," Advertisement, *The New York Times*, 16 September 1976, sec. 1, p. 39.

[30] "Is the Mobil Oil Co. Standing Up for America," Advertisement, *The New York Times*, 27 September 1976, sec. 1, p. 14.

[31] "Reason, Not Emotion, Should Rule," Advertisement, *The New York Times*, 30 September 1976, sec. 1, p. 41.

[32] James M. McNaughton, "Support for Carter Widens as He Ends First 100 Days," *The New York Times*, 29 April 1977, sec. 1, p. 1.

[33] Charles Mohr, "Carter Asks Strict Fuel Saving; Urges 'Moral Equivalent of War' to Bar a 'National Catastrophe'," *The New York Times*, 19 April 1977, sec. 1, p. 1, 24.

[34] Robert Reinhold, "Survey Indicates President Faces Skepticism Over Energy Program," *The New York Times*, 29 April 1977, sec. 1, p. 16.

[35] "The Biggest Rip-Off," *Time*, 24 October 1977, p. 25.

[36] "Even if You Have Money to Burn, You Should Save Energy," Advertisement, *The New York Times*, 15 June 1972, sec. 1, p. 41.

[37] "How to Handle Your Car in a Crisis," Advertisement, *The New York Times*, 22 February 1973, sec. 1, p. 39.

[38] "Mobil News Release," Advertisement, *The New York Times*, 28 June 1973, sec. 1, p. 47.

[39] "Good Sense is No Gamble," Advertisement, *The New York Times*, 29 September 1977, sec. 1, p. 27.

[40] "Musings of an Oil Person," Advertisement, *The New York Times*, 20 October 1977, sec. 1, p. 23.

[41] "Questions We Wish the President Would Answer," Advertisement, *The New York Times*, 10 November 1977, sec. 1, p. 23.

[42] "Should U.S. Energy Policy Make Me Feel Guilty About My Lifestyle?" Advertisement, *The New York Times*, 25 August 1977, sec. 1, p. 19.

[43] "Should U.S. Energy Policy Worsen the Dollar Drain and Strangle the Economy?" Advertisement, *The New York Times*, 8 September 1977, sec. 1, p. 27.

[44] "Oil Industry Under Siege," *U.S. News and World Report*, 31 October 1977, p. 75.

[45] David Pauly and James Bishop, Jr., "Big Trouble for Big Oil," *Newsweek*, 27 October 1975, p. 81.

[46] "Assailing the Giants," *Time*, 3 November 1975, p. 78.

[47] "The Oil Giants: An Irresistible Target," *Forbes*, 15 January 1976, p. 20-21.

[48] "Raising the Chopping Block," *Time*, 28 June 1976, p. 56.

[49] "The Biggest Rip-Off," p. 24-25.

[50] "Don't Shoot the Piano Player," Advertisement, *The New York Times*, 9 May 1974, sec. 1, p. 43.

[51] Irwin Ross, "Public Relations Isn't Kid-Glove Stuff at Mobil," *Fortune*, September 1976, p. 110.

[52] "The Gasoline Shortage Hits the Media," *Business Week*, 11 August 1973, p. 129.

[53] Joseph J. Seldin, "Corporate Advertising: Who Pays for the Image?" *The Nation*, 20 December 1975, p. 646-649.

[54] "The Best Seller That Nobody Reads," *Madison Avenue*, February 1981, p. 34.

[55] Green and Buchsbaum, *The Corporate Lobbies*, 67.

[56] Ralph Nader and William Taylor, *The Big Boys: Power and Position in American Business* (New York: Pantheon, 1986), 267, 186.

[57] Robert M. Entman, "Framing: Toward Clarification of a Fractured Paradigm," *Journal of Communication* 43:4 (Autumn 1993): 52-53.

[58] Steven Rattner, "Mobil Opposes Decontrol," *The New York Times*, 3 May 1979, sec. 4, p. 1, 11.

[59] "Reason, Not Emotion, Should Rule," Advertisement, *The New York Times*, 30 September 1976, sec. 1, p. 41; Robert D. Hershey, Jr., "Bill to Bar Americans' Role in Boycott of Israel Ready," *The New York Times*, 21 March 1977, sec. 1, p. 43, 46; Adam Clymer, "Accord Reached on Bill Seeking to Foil Boycott," *The New York Times*, 4 May 1977, sec. 4, p. 1, 13; and Salpukas, "How Business Grappled With the Arab Boycott," sec. 3, p. 1.

[60] Entman, "Framing," 52-53.

[61] Stuart Ewen, *PR! A Social History of Spin* (New York: Basic, 1996), 233-46.

[62] Roland Marchand, "AT&T: The Vision of a Loved Monopoly," in Jack Beatty, ed., *Colossus: How the Corporation Changed America* (New York: Broadway, 2001), 197.

[63] Roland Marchand, *Creating the Corporate Soul: The Rise of Public Relations and Corporate Imagery* (Berkeley: University of California Press, 1998), 41-87.

[64] Philip H. Dougherty, "New Series at Reader's Digest," *The New York Times*, 9 January 1975, sec. 1, p. 57.

[65] "Behind the Lines," *The Reader's Digest*, February 1975, p. 15.

[66] "Behind the Lines," p. 15-16.

[67] "A Dollar-And-Sense Quiz," Advertisement, *The Reader's Digest*, June 1975, p. 176, 178.

[68] "Them," Advertisement, *The Reader's Digest*, April 1975, p. 40.

[69] "Who Cheers When Products Work?" Advertisement, *Th*e Reader's Digest, May 1975, p. 193-194.

[70] "Free Enterprise — Is This Any Way to Live?" Advertisement, *The Reader's Digest*, September 1975, p. 182.

[71] "Whatever Happened to the Nickel Candy Bar?" Advertisement, *The Reader's Digest*, February 1975, p. 44.

[72] "You Pay For What You Get," Advertisement, *The Reader's Digest*, October 1975, p. 214.

[73] "More Jobs? There Is A Way," Advertisement, *The Reader's Digest*, August 1975, p. 3-4.

[74] "The Secret Tax America Can't Afford," Advertisement, *The Reader's Digest,* March 1975, p. 211.

[75] "Free Enterprise — Is This Any Way to Live?" p. 181-182.

[76] "Too Big or Not Too Big?" Advertisement, *The Reader's Digest*, January 1976, p. 196-198.

[77] "Them," p. 39.

[78] "Them," p. 39-40.

[79] "You Pay For What You Get," p. 212.

[80] "You Pay For What You Get," p. 212-213.

[81] "Free Enterprise — Is This Any Way to Live?" p. 182.

[82] "Too Big or Not Too Big?" p. 196.

[83] "The Magic of New Products," Advertisement, *The Reader's Digest*, December 1975, p. 216, 218.

[84] "Them," p. 38-39.

[85] "Who Cheers When Products Work?" p. 193.

[86] "A Dollar-And-Sense Quiz," p. 177-178.

[87] "More Jobs? There Is A Way," p. 4.

[88] "Who Cheers When Products Work?" p. 194.

[89] "The Magic of New Products," p. 216-218.

[90] "A Dollar-And-Sense Quiz," Advertisement, *The Reader's Digest*, June 1975, p. 177-178; and "The Secret Tax America Can't Afford," p. 210-211.

[91] "You Pay For What You Get," p. 213.

[92] "Why Companies Do Business Abroad," Advertisement, *The Reader's Digest*, November 1975, p. 26, 28; "More Jobs? There Is A Way," p. 3; and "You Pay For What You Get," p. 213-214.

[93] "The Secret Tax America Can't Afford," p. 211-212; and "Free Enterprise — Is This Any Way to Live?" p. 180.

[94] "How They Got to Senator T," Advertisement, *Public Relations Journal* 31, no. 4 (April 1975): 5.

[95] Edward Langley, "Why Economic Education Isn't Working," *Public Relations Journal* 33, no. 2 (February 1977): 10.

[96] "Croesus, Inc.," Advertisement, *The New York Times*, 4 January 1973, sec. 1, p. 37.

[97] "Social Mobility or Class Warfare?" Advertisement, *The New York Times*, 6 May 1976, sec. 1, p. 37.

[98] "Social Programs and Economic Growth," Advertisement, *The New York Times*, 15 April 1976, sec. 1, p. 33.

[99] "Social Mobility or Class Warfare?"

[100] "Social Programs and Economic Growth."

[101] "Subsidizing Consumption, Penalizing Investment," Advertise-ment, *The New York Times*, 29 April 1976, sec. 1, p. 39.

[102] "Social Mobility or Class Warfare?"

[103] "Profits, Investments, and Jobs," Advertisement, *The New York Times*, 22 April 1976, sec. 1, p. 33.

[104] "Subsidizing Consumption, Penalizing Investment."

[105] "Government — the Big Growth Industry," Advertisement, *The New York Times*, 13 May 1976, sec. 1, p. 35.

[106] "FDR, JFK, GNP, and Social Progress," Advertisement, *The New York Times*, 13 May 1976, sec. 1, p. 35.

[107] "Government — the Big Growth Industry."

[108] "The Need to Plan," *The New York Times*, 23 February 1975, sec. 5, p. 12.

[109] "Right On Energy," *The New York Times*, 24 December 1975, sec. 1, p. 20.

[110] R. Stephen Berry, "Reducing the Energy Demand," *The New York Times*, 12 February 1976, sec. 1, p. 31.

[111] "Let's End Energy Politics," Advertisement, *The New York Times*, 13 November 1975, sec. 1, p. 41.

[112] S. Prakash Sethi, *Advocacy Advertising and Large Corporations: Social Conflict, Big Business Image, the News Media, and Public Policy* (Lexington, Mass.: Lexington Books, 1977), 292-293.

[113] Ross, "Public Relations Isn't Kid-Glove Stuff at Mobil," p. 106.

[114] John E. O'Toole, "Advocacy Advertising Shows the Flag," *Public Relations Journal* 31, no. 11 (November 1975): 16.

[115] "Mobil's Rawleigh Warner is Adman of the Year," *Advertising Age*, 29 December 1975, p. 1.

[116] "How 27 Corporations Profile Themselves," *Advertising Age*, March 1975, p. 112.

[117] Jack R. Nowling, "Op-Ed: New Opportunity for PR," *Public Relations Journal* 31, no. 10 (October 1975): 20.

[118] "Industry Feature: Corporate Advertising," *Madison Avenue*, January 1976, p. 34.

[119] "Capital Formation: The Great Multiplier," Advertisement, *The New York Times*, 9 November 1972, sec. 1, p. 47.

[120] "Capital Formation," sec. 1, p. 47.

[121] "We Just Spent Three Months' Profits in One Morning," Advertisement, *The New York Times*, 10 January 1974, sec. 1, p. 37.

[122] "Sam Adams: A Radical for Today," Advertisement, *The New York Times*, 24 April 1975, sec. 1, p. 35.

[123] Eric Foner, "Sam Adams and Mobil," *The New York Times*, 30 April 1975, sec. 1, p. 40.

[124] Herbert Schmertz, "Sam Adams' Priority," *The New York Times*, 10 May 1975, sec. 1, p. 28.

[125] "A Fourth of July Speech in Search of an Orator," Advertisement, *The New York Times*, 3 July 1975, sec. 1, p. 31.

[126] "Congratulations, Researchers," Advertisement, *The New York Times*, 9 December 1976, sec. 1, p. 47; "Social Catalysts," Advertisement, *The New York Times*, 23 February 1978, sec. 1, p. 21; "Tiny Molecules, Huge Achievement," Advertisement, *The New York Times*, 22 February 1979, sec. 1, p. 27; "A Small Step for Coal; A Giant Step for Energy," Advertisement, *The New York Times*, 31 January 1980, sec. 1, p. 23; "The Wizard," Advertisement,

The New York Times, 10 July 1980, sec. 1, p. 19; and "Modern-Day Merlins," Advertisement, *The New York Times*, 4 September 1980, sec. 1, p. 27.

[127] "Drilling for Playgrounds," Advertisement, *The New York Times*, 25 March 1976, sec. 1, p. 35.

[128] "Oil From the Shelf," *The New York Times*, 17 February 1975, sec. 1, p. 20.

[129] "The Argo Merchant Disaster," *The New York Times*, 23 December 1976, sec. 1, p. 22.

[130] "Response," Advertisement, The New York Times, 7 June 1979, sec. 1, p. 23.

[131] "After the Embargo, What?" Advertisement, *The New York Times*, 28 March 1974, sec. 1, p. 39.

[132] "As the Red Queen Said to Alice," Advertisement, *The New York Times*, 20 February 1975, sec. 1, p. 33.

[133] John B. Oakes, "The Battle for the Environment," *The New York Times*, 2 December 1976, sec. 1, p. 43.

[134] "The British Are Coming! The British Are Coming!" Advertisement, *The New York Times*, 26 June 1975, sec. 1, p. 39.

[135] "Let's End Energy Politics," Advertisement, *The New York Times*, 13 November 1975, sec. 1, p. 41.

[136] "Wind-Swept Oil," *The New York Times*, 22 February 1975, sec. 1, p. 26.

[137] "A Fable for Now: Malice in Wonderland," Advertisement, *The New York Times*, 16 November 1978, sec. 1, p. 27; and "A Fable for Now: The Emperor's New Clause," Advertisement, *The New York Times*, 12 July 1979, sec. 1, p. 21.

[138] "A Fable for Now: Of Mice and Mammoths," Advertisement, *The New York Times*, 26 February 1976, sec. 1, p. 31.

[139] "A Fable for Now: The Wolf Who Cried 'Boy!' " Advertisement, *The New York Times*, 19 August 1976, sec. 1, p. 35.

[140] "Should U.S. Energy Policy Mean More Deprivation for Americans Who Are Already Deprived?" Advertisement, *The New York Times*, 1 September 1977, sec. 1, p. 21.

[141] "Should U.S. Energy Policy Worsen the Dollar Drain and Strangle the Economy?" Advertisement, *The New York Times*, 8 September 1977, sec. 1, p. 27.

[142] Albert Gaillord Hart and Charles Issawi, "A Heavy Tax on U.S. Consumption," *The New York Times*, 3 October 1974, sec. 1, p. 42.

[143] "Gasoline Tax," *The New York Times*, 16 November 1974, sec. 1, p. 30.

[144] "How 8 Senators Ignored Overwhelming Evidence," Advertisement, *The New York Times*, 17 June 1976, sec. 1, p. 35.

[145] "Attempts to Punish the Oil Industry for Alleged Anti-Competitive Behavior are Contrary to the National Interest," Advertisement, *The New York Times*, 22 July 1976, sec. 1, p. 31.

[146] "*The New York Times* Said It Beautifully," Advertisement, *The New York Times*, 15 July 1976, sec. 1, p. 35.

[147] "The Soapbox is a Lonely Place," Advertisement, *The New York Times*, 8 May 1975, sec. 1, p. 39.

[148] "How 8 Senators Ignored Overwhelming Evidence," sec. 1, p. 35.

[149] "Oil is Not a Cottage Industry," Advertisement, *The New York Times*, 1 July 1976, sec. 1, p. 29.

[150] "Wrong Way On Oil," *The New York Times*, 21 June 1976, sec. 1, p. 28.

[151] "Alternative Remedies," *The New York Times*, 21 June 1976, sec. 1, p. 28.

[152] "Response," *The New York Times*, 7 June 1979, sec. 1, p. 23.

[153] "Reason, Not Emotion, Should Rule," Advertisement, *The New York Times*, 30 September 1976, sec. 1, p. 41.

[154] Herbert Schmertz, "Anti-Boycott Law: Mobil Oil's Case," *The New York Times*, 30 September 1976, sec. 1, p. 44.

[155] Benjamin Rosenthal, "And That of Representative Rosenthal," *The New York Times*, 30 September 1976, sec. 1, p. 44.

[156] "An Open Letter to Congressman Rosenthal," Advertisement, *The New York Times*, 14 October 1976, sec. 1, p. 37.

[157] Richard J. Barnet and Ronald E. Muller, "Planet Earth, a Wholly-Owned Subsidiary," *The New York Times*, 23 January 1975, sec. 1, p. 33. Barnet and Muller's *Global Reach: The Power of the Multinational Corporations* was published in 1974 by Simon and Schuster.

Chapter Four

[1] Robert Solomon, "What the Oil Shock Is Doing to the World Economy," *Fortune*, 29 December 1980, p. 9.

[2] "The Oil Crisis is Real This Time," *Business Week*, 30 July 1979, p. 44.

[3] Leonard Silk, "Inflation: A Showdown is at Hand," *The New York Times*, 7 January 1979, sec. 12, p. 1.

[4] Eliot Marshall, "The New Feudalism," *The New Republic*, 20 January 1979, p. 13-16.

[5] Theodore Levitt, "This Man Would Like to Invade the Arab Oilfields," *The New York Times*, 4 July 1979, sec. 1, p. 17.

[6] Anthony J. Parish, "Oil Company Nets Surge," *The New York Times*, 24 January 1980, sec. 4, p. 1.

[7] "How CBS on October 24, 1979, Prefabricated the News," Advertisement, *The New York Times*, 5 November 1979, sec. 2, p. 5.

[8] Parish, "Oil Company Nets Surge," sec. 4, p. 4.

[9] Thomas C. Hayes, "Networks and Mobil Duel Over Ads," *The New York Times*, 31 January 1980, sec. 3, p. 22; and Les Brown, "3 Stations Bar Mobil Series Over Ads," *The New York Times*, 24 January 1980, sec. 3, p. 19.

[10] "Mobil Oil Shareholders Approve Reorganization," *The New York Times*, 19 June 1976, sec. 1, p. 28.

[11] "What Makes Mobil Run?" *Business Week*, 13 June 1977, p. 80.

[12] "Can't Tell the Seven Sisters Apart? We're the One With the Extra Dimension," Advertisement, *The New York Times*, 3 February 1977, sec. 1, p. 33.

[13] Robert Sherrill, "Operation Op-Ed: Mobil News That's Fit to Print," *The Nation*, 27 January 1979, p. 72-73.

[14] "And He Zings 'Em Right Back," *Fortune*, October 1974, p. 47.

[15] "What Makes Mobil Run?" p. 80.

[16] Clyde H. Farnsworth, "Washington Watch," *The New York Times*, 21 April 1980, sec. 4, p. 2.

[17] "Why Mobil Isn't Loved," *The New Republic*, 14 October 1979, p. 3.

[18] *First National Bank of Boston v. Bellotti*, 435 U.S. 765, 767-769 (1978).

[19] 1973 Mass. Acts ch. 348.

[20] *First National Bank of Boston v. Attorney General*, 359 N.E.2d 1262 (Mass 1977).

[21] "Justices, 5-4, Allow Corporate Spending for Issues on Ballot," *The New York Times*, 27 April 1978, sec. A, p. 1; "Court Eases Bar to Corporations Political Spending," *The Washington Post*, 27 April 1978, sec. A, p. 1; "Court Holds Firms May Try to Sway Voters," *The Los Angeles Times*, 27 April 1978, sec. 1, p. 1; "Corporate Free Speech is Upheld," *The Boston Globe*, 27 April 1977, sec. 1, p. 1; "High Court Overturns Mass. Spending Law, 5-4," *The Boston Globe*, 27 April 1977, sec. 1, p. 1; and "Reaction: It's a Major Blow to Consumers," *The Boston Globe*, 27 April 1977, sec. 1, p. 1.

[22] "Justices, 5-4, Allow Corporate Spending for Issues on Ballot," sec. A, p. 1.

[23] "Court Eases Bar to Corporations Political Spending," sec. A, p. 1.

[24] "Court Holds Firms May Try to Sway Voters," sec. 1, p. 1.

[25] "Corporation's Right to Disseminate View On Political Issues Backed by High Court," *The Wall Street Journal*, 27 April 1978, sec. 1, p. 4.

[26] "Corporate Speech and Media Inc.," *The New York Times*, 7 May 1978, sec. A, p. 22.

[27] "Bellotti and Beyond," *The Wall Street Journal*, 5 May 1978, sec. 1, p. 12.

[28] "Money Talks?" *The Washington Post*, 2 May 1978, sec. A, p. 18.

[29] "Freeing the Corporate Voice," *The Los Angeles Times*, 1 May 1978, sec. 2, p. 4.

[30] Norman Dorson and Joel Gora, "Free Speech, Property, and the Burger Court: Old Values, New Balances," *Supreme Court Review* 195 (1982): 212.

[31] Kent R. Middleton, Bill F. Chamberlin, and Matthew D. Bunker, *The Law of Public Communication*, 4th ed. (New York: Longman, 1997), 626-627; and Kent R. Middleton and Matthew D. Bunker, *Key Cases in the Law of Public Communication*, (New York: Longman, 1995), viii-xiii.

[32] David L. Altheide, *Qualitative Media Analysis* (Thousand Oaks, Calif.: Sage, 1996), 31.

[33] Robert M. Entman, "Framing: Toward Clarification of a Fractured Paradigm," *Journal of Communication* 43:4 (Autumn 1993): 52.

[34] 435 U.S. 765, 776-7 (1978).

[35] As Altheide stresses, "these meanings and patterns seldom appear all at once." Instead, "they *emerge* or become more clear through constant comparison and investigation of documents over a period of time [emphasis included]." Altheide, *Qualitative Media Analysis*, 10. This point is crucial in identifying and articulating "thematically consonant meanings across media and time" through the analysis of the various narratives that were the subject of this study. In this manner, findings can ultimately be integrated with interpretation. Robert M. Entman, "Framing U.S. Coverage of International News: Contrasts in Narratives of the KAL and Iran Air Incidents," *Journal of Communication* 41, no. 4 (Autumn 1991): 7.

[36] *Dartmouth College v. Woodward*, 17 U.S. 518, 636 (1819).

[37] I. Maurice Wormser, *Frankenstein Incorporated* (New York: Whittlesey House, 1931), 56-59.

[38] *First National Bank of Boston v. Attorney General*, 1269.

[39] Brief for Appellee, 3-4, *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) (No. 76-1172).

[40] Brief for Appellee, 4-14, *First National Bank of Boston v. Bellotti*.

[41] Brief for the State of Montana, 13-14, 16, *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) (No. 76-1172).

[42] Brief for Appellant, 35-36, *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) (No. 76-1172).

[43] Brief for Associated Industries of Massachusetts et al., 13, *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) (No. 76-1172).

[44] *Santa Clara County v. Southern Pacific Railroad*, 118 U.S. 394 (1886); *Minneapolis and St. Louis Railroad v. Beckwith*, *129 U.S. 26* (1889).

[45] Brief for Associated Industries of Massachusetts et al., 13, *First National Bank of Boston v. Bellotti*.

[46] 435 U.S. 765, 776-777, 784 (1978).

[47] 435 U.S. 765, 776-7 (1978).

[48] 435 U.S. 765, 777-8.

[49] White was using "fungible" here in the legal sense to mean "interchangeable."

[50] 435 U.S. 765, 804-5.

[51] 435 U.S. 765, 806-7.

[52] 435 U.S. 765, 807.

[53] 435 U.S. 765, 823-4, 828.

[54] Brief for Appellee, 4, *First National Bank of Boston v. Bellotti*.

[55] Brief for the State of Montana, 3-4, 7 *First National Bank of Boston v. Bellotti*.

[56] Brief for the State of Montana, 7, 15-16, *First National Bank of Boston v. Bellotti*.

[57] Brief for Appellant, 14, 35, *First National Bank of Boston v. Bellotti*.

[58] Brief for Northeastern Legal Foundation et al., 3, 5, 10, *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) (No. 76-1172).

[59] Brief for the Chamber of Commerce of the United States of America, 3-4, *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) (No. 76-1172).

[60] Brief for Associated Industries of Massachusetts et al., 15-16, *First National Bank of Boston v. Bellotti*.

[61] Brief for New England Council, 3, 6-7, *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) (No. 76-1172).

[62] 435 U.S. 765, 781, 783-5.

[63] 435 U.S. 765, 803, 811-2, 820.

[64] 435 U.S. 765, 809-10.

[65] 435 U.S. 765, 825-6.

[66] "Five Years After Embargo: No End to Energy Woes," *U.S. News and World Report*, 23 October 1978, p. 30.

[67] "Another Oil Price Stunner," *Time*, 24 December 1979, p. 60.

[68] "Big Oil's Pinch at the Pump," *Time*, 18 November 1978, p. 64.

[69] Solomon, "What the Oil Shock Is Doing to the World Economy," p. 9.

[70] "The Seven Sisters Still Rule," *Time*, 11 September 1978, p. 42-43.

[71] "Bad Things Come in Threes," *Time*, 11 June 1979, p. 70-71.

[72] Anthony J. Parish, "Oil Problem: How to Cut Consumption and Inflation," *The New York Times*, 7 January 1979, sec. 12, p. 43.

[73] Paul Lewis, "Businessmen Ask Curb on Growth of the Government's Interference," *The New York Times*, 10 February 1977, sec. 1, p. 57, 63.

[74] Steven Rattner, "Mobil Opposes Decontrol," *The New York Times*, 3 May 1979, sec. 4, p. 1, 11.

[75] "Windfall Profits or Windfall Tax?" Advertisement, *The New York Times*, 12 April 1979, sec. 1, p. 23.

[76] "Healthy Debate," Advertisement, *The New York Times*, 17 May 1979, sec. 1, p. 23.

[77] "Energy Follies and Energy Drama," Editorial, *The New York Times*, 3 November 1977, sec. 1, p. 24.

[78] "How Lobbyists Deflate Carter's 'Windfall' Tax," *U.S. News and World Report*, 5 November 1978, p. 28.

[79] "Behind Big Furor Over 'Windfall' Tax," *U.S. News and World Report*, 14 May 1979, p. 23.

[80] James Reston, "Excerpts From Text of an Interview With Carter on Foreign and Domestic Affairs," *The New York Times*, 5 December 1977, sec. 1, p. 42.

[81] "An Answer that Raises Questions," Advertisement, *The New York Times*, 8 December 1977, sec. 1, p. 23.

[82] Martin Tolchin, "Carter Castigates Mobil on Decontrol," *The New York Times*, 2 June 1979, sec. 1, p. 1.

[83] "Response," *The New York Times*, 7 June 1979, sec. 1, p. 23.

[84] "Corporate Communications: The Battle for Hearts and Minds," *Saturday Review*, 29 September 1979, p. 16.

[85] "The Dangerous Decade," Advertisement, *The New York Times*, 5 July 1979, sec. 1, p. 17.

[86] "Musings of an Oil Person," Advertisement, *The New York Times*, 19 July 1979, sec. 1, p. 19.

[87] "Sorry, Mr. President, You've Been Misled," Advertisement, *The New York Times*, 3 April 1980, sec. 1, p. 23.

[88] "Energy: Fuels of the Future," *Time*, 11 June 1979, p. 72-76.

[89] James T. Wooten, "Carter Brushes Off Liberals' Criticism, Defends His Policies," *The New York Times*, 13 May 1977, sec. 1, p. 1.

[90] Edward Cowan, "Carter Energy Plan Called 'Regressive," *The New York Times*, 1 May 1977, sec. 1, p. 24. The Consumer Federation of America represented thirty-four unions, farm groups and power cooperatives.

[91] "Big-Oil Bonanza," Editorial, *The Nation*, 21 April 1979, p. 419.

[92] "Washington's Impact on Business," *The New York Times*, 7 January 1979, sec. 12, p. 32.

[93] Adam Smith, "Maybe I Am Easily Scared: Energy and Superinflation," *The Atlantic*, December 1978, p. 46-47.

[94] Steven V. Roberts, "Survey Shows Inflation Brings Cutbacks to Many," *The New York Times*, 1 February 1979, p. 14.

[95] "The Cooling of America," *Time*, 24 December 1979, p. 49.

[96] "Inflation's Toll on Take-Home Pay," *The New York Times*, 26 March 1980, sec. 1, p. 1.

[97] "Business Outlook," *Business Week*, 14 January 1980, p. 19.

[98] Adam Clymer, "Carter Gains in Poll After Treaty, but His Rating on Economy Falls," *The New York Times*, 29 March 1979, sec. 1, p. 1.

[99] Leonard Silk, "Concern Grows Over Inflation," *The New York Times*, 13 June 1979, sec. 4, p. 3.

[100] Steven V. Roberts, "As Prices Rise, Carter's Rating in Poll Declines," *The New York Times*, 28 April 1980, sec. 4, p. 10.

[101] E.B. Brossard, *Petroleum: Politics and Power* (Tulsa, Okla.: PennWell, 1983), 159.

[102] "How Fragile the Oil Machine," Editorial, *The New York Times*, 8 November 1979, sec. 1, p. 22. Ironically, the hostage crisis initially gave Carter his last significant, though short-lived, bounce in the approval ratings as Americans patriotically rallied around their president in the early days of the embassy takeover.

[103] "Man of the Year," *Time*, 7 January 1980, p. 9.

[104] "Again — An Oil Scare," *U.S. News and World Report*, 12 March 1979, p. 23-24.

[105] Peter Deutsch, "The Phony Oil Crisis," *The Nation*, 21 April 1979, p. 423-426.

[106] S. Fred Singer, "The Oil Crisis That Isn't," *The New Republic*, 24 February 1979, p. 13-15.

[107] "Under the Oil Gun — Once More," *U.S. News and World Report*, 3 November 1980, p. 64-65.

[108] "The End of the Petroleum Age," *Business Week*, 30 July 1979, p. 44.

[109] Frank Lynn, "TV, Radio and Poll Consultants Hired for Start of Kennedy Drive," *The New York Times*, 21 November 1979, sec. 1, p. 17.

[110] "A Carter-Kennedy Oil Spill," *U.S. News and World Report*, 14 May 1979, p. 23.

[111] "Permanent Teeth in the Oil-Profits Tax," *The New York Times*, 10 May 1979, sec. 1, p. 23-24.

[112] "Oil and Water?" *The New York Times*, 25 November 1979, sec. 3, p. 17.

[113] Michael Gerrard, "This Man Was Made Possible by a Grant From Mobil Oil," *Esquire*, January 1978, p. 62-63, 145.

[114] "Oil and Water?" *The New York Times*, sec. 3, p. 17.

[115] David Pauly, "A View From The Inside," *Newsweek*, 11 February 1980, p. 76.

[116] Herb Schmertz and Larry Woods, *Takeover* (New York: Simon and Schuster, 1980), 7.

[117] "Downwardly Mobil?" *Forbes*, 3 March 1980, p. 102.

[118] Leonard Silk, "Politics and Oil Dominate '80 Outlook," *The New York Times*, 6 January 1980, sec. 12, p. 1.

[119] Richard D. Lyons, "Energy Plan Plays Pivotal Political Role," *The New York Times*, 6 January 1980, sec. 12, p. 24, 26.

[120] Adam Clymer, "Poll Shows Iran and Economy Hurt Carter Among Late-Shifting Voters," *The New York Times*, 16 November 1980, sec. 1, p. 1, 32.

[121] "The November Surprise," *The New York Times*, 6 November 1980, sec. 1, p. 34.

[122] Martin Feldstein, *American Economic Policy in the 1980s* (Chicago: University of Chicago Press, 1994), 6-9. Carter's successor, Ronald Reagan, supported Volcker's anti-inflation policies at the Federal Reserve.

[123] "Embarrassment of Riches?" Advertisement, *The New York Times*, 9 October 1980, sec. 1, p. 35.

[124] "To Have or Have Not?" Advertisement, *The New York Times*, 16 October 1980, sec. 1, p. 31.

[125] "We Still Have Time — Just," Advertisement, *The New York Times*, 23 October 1980, sec. 1, p. 27.

[126] "The Fork in the Road," Advertisement, *The New York Times*, 30 October 1980, sec. 1, p. 27.

[127] "John Adams, 'Midnight Judges,' and Oil," Advertisement, *The New York Times*, 20 November 1980, sec. 1, p. 35; and "Answer to a Frustrated Lame Duck, "*The New York Times*, 28 December 1980, sec. 5, p. 13.

[128] Gerrard, "This Man Was Made Possible," p. 145.

[129] "Case Study," *Madison Avenue*, May 1978, p. 58.

[130] "How Good Are Advocacy Ads?" *Dun's Review*, June 1978, p. 76.

[131] "Big Business On a Soapbox," *Marketing & Media Decisions*, June 1979, p. 130.

[132] Ward Welty, "Is Issue Advertising Working?" *Public Relations Journal* 37, no. 11 (November 1981): 29.

[133] S. Prakash Sethi, "Dangers of Advocacy Advertising," *Public Relations Journal* 32, no. 11 (November 1976): 46.

[134] Sethi, "Dangers of Advocacy Advertising," 42.

[135] "Industry Fights Back: The Debate Over Advocacy Advertising," *Saturday Review*, 21 January 1978, p. 20.

[136] Paul Rutherford, *Endless Propaganda: The Advertising of Public Goods* (Toronto: University of Toronto Press, 2000), 57-58.

[137] Herbert Schmertz, telephone interview with author, 13 April 2002.

[138] "Surviving in a Complex World," Advertisement, *The New York Times*, 2 March 1978, sec. 1, p. 19.

[139] "Need Now: A Standby National Gasoline-Rationing Plan," *The New York Times*, 21 June 1979, sec. 1, p. 21.

[140] "We've Got a Little List," Advertisement, *The New York Times*, 10 January 1980, sec. 1, p. 23.

[141] Thomas F. Eagleton, "Do Oil Companies Need Higher Profits to Produce More Oil?" *The New York Times*, 12 July 1979, sec. 1, p. 20.

[142] James Q. Riordan, "Deferred Taxes Are a Corporate Liability," *The New York Times*, 31 July 1979, sec. 1, p. 14.

[143] "Because That's Where the Oil Is," Advertisement, *The New York Times*, 14 June 1973, sec. 1, p. 47.

[144] "Musings of an Oil Person," Advertisement, *The New York Times*, 11 May 1978, sec. 1, p. 23.

[145] Robert Redford, "Solar Protection," *The New York Times*, 18 May 1978, sec. 1, p. 22.

[146] Herbert Schmertz, "Mobil's Outlook on Solar Energy," *The New York Times*, 28 May 1978, sec. 1, p. 14.

[147] "How Long, America?" Advertisement, *The New York Times*, 6 April 1978, sec. 1, p. 21.

[148] "The Dangerous Decade," sec. 1, p. 17.

[149] "Liberals, Logical Allies of Business," Advertisement, *The New York Times*, 22 June 1978, sec. 1, p. 23.

[150] Erwin Knoll, "Hole-Watching," *The Progressive*, June 1978, p. 125-126.

[151] "Business: Last Haven for Radicals," Advertisement, *The New York Times*, 29 June 1978, sec. 1, p. 25.

[152] Merrill Brown, "Regulation Critics Assailed," *The Washington Post*, 28 February 1980, sec. B, p. 1, 3.

[153] "What's Safer than Coal, Grand Central Station, Small Cars, Colorado, or Being Fat?" Advertisement, *The New York Times*, 15 February 1979, sec. 1, p. 27.

[154] "I Was the Only Victim of Three Mile Island," Advertisement, *The New York Times*, 27 March 1980, sec. 1, p. 23.

[155] "The Meaning of Three Mile Island," *The New York Times*, 12 April 1979, sec. 1, p. 22.

[156] Jan Beyea, "Sense and Nonsense About Energy," *The New York Times*, 30 October 1980, sec. 1, p. 26.

[157] Herbert Schmertz, "Energy Plus Clean Air and Water," *The New York Times*, 13 November 1980, sec. 1, p. 34.

[158] "Perhaps, One Day, There Will be Abundant Supplies of Energy Derived from the Sun, the Wind, Oceans, Fusion or Geothermal Sources," Advertisement, *The New York Times*, 13 February 1975, sec. 1, p. 33.

[159] "Who Wants Decontrol?" Advertisement, *The New York Times*, 25 January 1979, sec. 1, p. 19.

[160] "A Special Kind of Shortage," Advertisement, *The New York Times*, 21 December 1978, sec. 1, p. 25; and "Embarrassment Over Decontrol," Advertisement, *The New York Times*, 28 December 1978, sec. 1, p. 17.

[161] "National Security Starts at the Well," Advertisement, *The New York Times*, 25 October 1979, sec. 1, p. 19.

[162] "Some Energy Options That Haven't Even Been Discussed," Advertisement, *The New York Times*, 2 August 1979, sec. 1, p. 17.

[163] Colman McCarthy, "The World According to Mobil," *The Washington Post*, 2 December 1979, sec. G, p. 10.

[164] Jack Egan, "Mobil Looked at Other Newspapers Besides L.I. Press," *The Washington Post*, 8 April 1977, sec. D, p. 1.

[165] "Mobil Won't Buy Paper," *The Washington Post*, 20 April 1977, sec. D, p. 10.

[166] "Imagine Tomorrow Without Argument," Advertisement, *The New York Times*, 16 August 1979, sec. 1, p. 23.

[167] 447 U.S. 557, 566 (1980): "In commercial speech cases, then, a four-part analysis has developed. At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at least must concern lawful activity and not be misleading. Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest."

[168] The Court's characterization of commercial speech in *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council*, 425 U.S. 748, 762 (1976), quoting *Pittsburgh Press Co. v. Human Relations Commission*, 413 U.S. 376, 385 (1973).

[169] "Transcript of the President's State of the Union Address to Joint Session of Congress," *The New York Times*, 24 January 1980, sec. 1, p. 12.

[170] 447 U.S. 557, 580-581.

[171] 425 U.S. 748 (1976). That decision established a substantial level of First Amendment protection for commercial speech.

[172] Brief for Appellant, 4-12, *Central Hudson v. Public Service Commission*, 447 U.S. 557 (1980) (No. 79-565).

[173] 447 U.S. 557, 568, 570.

[174] Brief for Appellee, 6, 10-12, *Central Hudson v. Public Service Commission*, 447 U.S. 557 (1980) (No. 79-565).

[175] Brief for Appellant, 9, 13-15, 31, *Central Hudson v. Public Service Commission*, 447 U.S. 557 (1980) (No. 79-565).

[176] Brief for Edison Electric Institute, 2, *Central Hudson v. Public Service Commission*, 447 U.S. 557 (1980) (No. 79-565).

[177] Brief in Support of Jurisdictional Statement for Edison Electric Institute, 6, *Central Hudson v. Public Service Commission*, 447 U.S. 557 (1980) (No. 79-565).

[178] Brief for Long Island Lighting Company, 7-8, 11, *Central Hudson v. Public Service Commission*, 447 U.S. 557 (1980) (No. 79-565).

[179] 447 U.S. 557, 562-3, 571.

[180] 447 U.S. 557, 580-1, 583.

[181] 425 U.S. 748 (1976).

[182] 447 U.S. 557, 584, 598-9.

[183] 447 U.S. 530 (1980).

[184] Consolidated Edison said examples of such issues on which it could provide relevant information and comment would be construction and expansion of nuclear-powered and coal-fired power plants to decrease dependency on imported oil, investor-owned versus government-owned utility service, development of natural gas, and the effect of environmental costs on utility rates.

[185] Brief for Appellee, 25-34, *Consolidated Edison v. PSC.*

[186] 447 U.S., 539-40, 542, 543-4.

[187] Brief for Chamber of Commerce of the United States of America, 2, *Consolidated Edison v. Public Service Commission*, 447 U.S. 530 (1980) (No. 79-134).

[188] Brief for Appellee, 2-4, *Consolidated Edison v. Public Service Commission*, 447 U.S. 530 (1980) (No. 79-134).

[189] Brief for Appellant, 4, 9-10, *Consolidated Edison v. Public Service Commission*, 447 U.S. 530 (1980) (No. 79-134).

[190] Brief for Mobil Corporation, 2-4, 7-8, 29-30, *Consolidated Edison v. Public Service Commission*, 447 U.S. 530 (1980) (No. 79-134).

[191] Brief for Edison Electric Institute, 1-2, *Consolidated Edison v. Public Service Commission*, 447 U.S. 530 (1980) (No. 79-134).

[192] Brief for Pacific Gas & Electric et al., 9, 34, *Consolidated Edison v. Public Service Commission*, 447 U.S. 530 (1980) (No. 79-134).

[193] Brief for Chamber of Commerce of the United States of America, 4-6, *Consolidated Edison v. Public Service Commission*, 447 U.S. 530 (1980) (No. 79-134).

[194] *Consolidated Edison Co. of New York v. Public Service Commission of New York*, 447 U.S. 530, 533, 544 (1980).

[195] 447 U.S. 530, 549-50.

Chapter Five

[1] Herbert Schmertz, telephone interview with author, 13 April 2002.

[2] Schmertz, telephone interview with author.

[3] "Bits and Pieces," Advertisement, The New York Times, 18 May 1978, sec. 1, p. 23.

[4] Robert Sherrill, *The Oil Follies of 1970-80* (Garden City, N.Y.: Anchor, 1983), 60.

[5] Robert M. Entman, "Framing U.S. Coverage of International News: Contrasts in Narratives of the KAL and Iran Air Incidents," *Journal of Communication* 41, no. 4 (Autumn 1991): 7.

[6] William Gamson and Andre Modigliani, "Media Discourse and Public Opinion on Nuclear Power: A Constructionist Approach," *American Journal of Sociology* 95:1 (July 1989): 3-4. Following Gamson and Modigliani's model, the passages are indented here for clarity of presentation.

[7] All language in these composite statements is either quoted or slightly paraphrased (for syntactic purposes) from various texts in the respective bodies of discourse.

[8] As literature on framing analysis emphasizes, framing is not solely a one-way media practice, but rather an interactive process between media and audiences. See Gamson and Modigliani, "Media Discourse and Public Opinion on Nuclear Power," 2. Framing operates in at least four "locations in the communication process: the communicator, the text, the receiver, and the culture." These categories must be considered more interrelated than exclusive, in that texts may be influenced by both communicators and receivers, both of which influence and are influenced by the culture. See Robert M. Entman, "Framing: Toward Clarification of a Fractured Paradigm," *Journal of Communication* 43:4 (Autumn 1993): 52-53.

[9] Seymour Martin Lipset and William Schneider, "The Public View of Regulation," *Public Opinion* 2:1 January-February 1979, 6-7.

[10] S. Prakash Sethi, *Advocacy Advertising and Large Corporations: Social Conflict, Big Business Image, the News Media, and Public Policy* (Lexington, Mass.: Lexington Books, 1977), 292-293, 319.

[11] 435 U.S. 765 (1978).

[12] 447 U.S. 557 (1980).

[13] 447 U.S. 530 (1980).

[14] Gregory Bateson, "A Theory of Play and Fantasy," in *Steps to an Ecology of Mind: Collected Essays in Anthropology, Psychiatry, Evolution, and Epistemology* (New York: Ballantine, 1972), 187-88.

[15] In *U.S. v. Morton Salt Company*, 338 U.S. 632, 652 (1950), the Supreme Court held that corporations "are endowed with public attributes [special advantages such as limited liability, perpetual life, and special tax

treatment that enhance the accumulation of capital]. They have a collective impact upon society, from which they derive the privilege of acting as artificial entities."

[16] Jerry Z. Muller, *Adam Smith in His Time and Ours: Designing the Decent Society* (New York: Free Press, 1993), 15.

[17] Joyce Appleby, *Capitalism and a New Social Order: The Republican Vision of the 1790s* (New York: New York University Press, 1984), 32, 50-51.

[18] Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations,* vol. 1 (1776; reprint, Indianapolis, Ind.: Liberty Classics, 1976), 267.

[19] G.R. Bassiry and Marc Jones, "Adam Smith and the Ethics of Contemporary Capitalism," *Journal of Business Ethics* 12, no. 8 (August 1993): 623.

[20] John D. Bishop, "Adam Smith's Invisible Hand Argument," *Journal of Business Ethics* 14, no. 3 (March 1995): 177.

[21] Smith, *Wealth of Nations,* vol. 2, 708.

[22] "As every individual, therefore, endeavours as much as he can to both employ his capital in the support of domestic industry, and so to direct that industry that its produce may be of the greatest value; every individual necessarily labours to render the annual revenue of the society as great as he can. He generally, indeed, neither intends to promote the publick interest, nor knows how much he is promoting it. . . . He intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention." Smith, Wealth of Nations, vol. 1, 456.

[23] Patricia H. Werhane, *Adam Smith and His Legacy for Modern Capitalism* (New York: Oxford University Press, 1991), 105, 107, 110.

[24] 34 Stat. 864 (1907); and 43 Stat. 1074 (1925).

[25] Ann B. Matasar, *Corporate PACs and Federal Campaign Financing Laws: Use or Abuse of Power* (New York: Quorum, 1986), 7-8.

[26] 459 U.S. 197, 207 (1982).

[27] 2 U. S. C. § 441b (1971).

[28] *Federal Election Commission v. Massachusetts Citizens for Life*, 479 U.S. 238, 257-258 (1986).

[29] *Austin v. Michigan State Chamber of Commerce*, 494 U.S. 652, 659-660 (1990). The Michigan regulation prohibited corporations from using general treasury funds to make independent expenditures in connection with state candidate elections, requiring that such expenditures be made from segregated funds raised from contributors to the fund and used solely for political purposes.

[30] *Pacific Gas & Electric Co. v. Public Utilities Commission*, 475 U.S. 1 (1986).

[31] *McConnell v. Federal Election Commission*, 124 S.Ct. 619 (2003).

[32] "Special Report: The New Energy Crisis," *Time*, 21 July 2003, p. 38. Jimmy Carter's energy policy cut oil imports from 8.6 million barrels a day to 4.3 million before it was abandoned in the early 1980s. Imports have risen ever since that time.

[33] Francisco Parra, *Oil Politics: A Modern History of Petroleum* (New York: I.B. Tauris & Co, 2004), 342-47.

[34] Ben H. Bagdikian, *The New Media Monopoly* (Boston: Beacon Press, 2004), 11, 27-54.

References

PRIMARY SOURCES

Austin v. Michigan State Chamber of Commerce, 494 U.S. 652 (1990).
The Boston Globe. 29 June 1962 — 28 April 1978.
Brief for American Association of Advertising Agencies. *Consolidated Edison v. Public Service Commission*, 447 U.S. 530 (1980) (No. 79-134).
Brief for Appellant. *Central Hudson v. Public Service Commission* 447 U.S. 557 (1980) (No. 79-565).
Brief for Appellant. *Consolidated Edison v. Public Service Commission*. 447 U.S. 530 (1980) (No. 79-134).
Brief for Appellant. *First National Bank of Boston v. Bellotti*. 435 U.S. 765 (1978) (No. 76-1172).
Brief for Appellee. *Central Hudson v. Public Service Commission*. 447 U.S. 557 (1980) (No. 79-565).
Brief for Appellee. *Consolidated Edison v. Public Service Commission* 447 U.S. 530 (1980) (No. 79-134).
Brief for Appellee. *First National Bank of Boston v. Bellotti*. 435 U.S. 765 (1978) (No. 76-1172).
Brief for Associated Industries of Massachusetts et al. *First National Bank of Boston v. Bellotti*. 435 U.S. 765 (1978) (No. 76-1172).
Brief for Chamber of Commerce of the United States of America. *Consolidated Edison v. Public Service Commission*. 447 U.S 530 (1980) (No. 79-134).
Brief for Chamber of Commerce of the United States of America. *Consolidated Edison v. Public Service Commission*. 447 U.S. 530 (1980) (No. 79-134).
Brief for the Chamber of Commerce of the United States of America. *First National Bank of Boston v. Bellotti*. 435 U.S. 765 (1978) (No. 76-1172).
Brief for Edison Electric Institute. *Central Hudson v. Public Service Commission*. 447 U.S. 557 (1980) (No. 79-565).
Brief for Edison Electric Institute. *Consolidated Edison v. Public Service Commission*. 447 U.S. 530 (1980) (No. 79-134).
Brief for Long Island Lighting Company. *Central Hudson v. Public Service Commission*. 447 U.S. 557 (1980) (No. 79-565).
Brief for Mobil Corporation. *Consolidated Edison v. Public Service*

Commission. 447 U.S. 530 (1980) (No. 79-134).
Brief for New England Council. *First National Bank of Boston v. Bellotti*. 435 U.S. 765 (1978) (No. 76-1172).
Brief for Northeastern Legal Foundation et al. *First National Bank of Boston v. Bellotti*. 435 U.S. 765 (1978) (No. 76-1172).
Brief for Pacific Gas & Electric et al. *Consolidated Edison v. Public Service Commission*. 447 U.S. 530 (1980) (No. 79-134).
Brief for Pacific Legal Foundation. *First National Bank of Boston v. Bellotti*. 435 U.S. 765 (1978) (No. 76-1172).
Brief for the State of Montana. *First National Bank of Boston v. Bellotti*. 435 U.S. 765 (1978) (No. 76-1172).
Business Week. January 1970 — December 1980.
Central Hudson Gas & Electric Corp. v. Public Utilities Commission 447 U.S. 557 (1980).
Consolidated Edison v. Public Service Commission. 447 U.S. 530 (1980).
Federal Election Commission v. Massachusetts Citizens for Life, 479 U.S. 238 (1986).
Federal Election Commission v. National Right to Work Committee, 459 U.S. 197 (1982).
First National Bank of Boston v. Bellotti. 435 U.S. 765 (1978).
Forbes. January 1970 — December 1980.
Fortune. January 1970 — December 1980.
The Los Angeles Times. 27 April 1978 — 1 May 1978.
McConnell v. Federal Election Commission, 124 S.Ct. 619 (2003).
The New York Times. 1 January 1970 — 31 December 1980.
Newsweek. January 1970 — December 1980.
Pacific Gas & Electric Co. v. Public Utilities Commission, 475 U.S. 1 (1986).
The Reader's Digest. February 1975 — January 1976.
Schmertz, Herbert. Telephone interview by Robert L. Kerr, 13 April 2002.
Time. January 1970 — December 1980.
U.S. News and World Report. January 1970 — December 1980.
The Wall Street Journal. 4 November 1977 — 5 January 1979.
The Washington Post. 27 April 1978 — 26 May 1978.

SECONDARY SOURCES

Adelman, M.A. *The Genie Out of the Bottle: World Oil Since 1970*. Cambridge, Mass.: MIT Press, 1995.

Akard, Patrick J. "Corporate Mobilization and Political Power: The Transformation of U.S. Economic Policy in the 1970s." *American Sociological Review* 57:5 (October 1992): 597-615.

Aker, Frank. October 1973: *The Arab-Israeli War*. Hamden, Conn.: Archon, 1985.

Appleby, Joyce. *Capitalism and a New Social Order: The Republican Vision of the 1790s*. New York: New York University Press, 1984.

Altheide, David L. *Qualitative Media Analysis*. Thousand Oaks, Calif.: Sage, 1996.

Bagdikian, Ben H. *The New Media Monopoly*. (Boston: Beacon Press, 2004).

Bailey, William. "Corporate/Commercial Speech and the Marketplace First Amendment: Whose Right Was It Anyway?" *Southern Communication Journal* 61:2 (Winter 1995): 122-138.

Barry, Norman. *Business Ethics*. First Ichor Business Book ed. West Lafayette, Ind.: Purdue University Press, 2000.

Bateson, Gregory. *Steps to an Ecology of Mind*. New York: Ballantine, 1972.

Beatty, Jack, ed. Colossus: *How the Corporation Changed America*. New York: Broadway, 2001.

Bell, Daniel. *The Coming of Post-Industrial Society: A Venture in Social Forecasting*. New York: Basic Books, 1973.

Bernays, Edward L. *Crystallizing Public Opinion*. New York: Liveright, 1923.

_____. *Propaganda*. New York: Liveright, 1928.

Birnbaum, Jeffrey H. *The Money Men: The Real Story of Fund-raising's Influence on Political Power in America*. New York: Crown, 2000.

Blackford, Mansel G., and K. Austin Kerr. *Business Enterprise in American History*. 2d ed. Boston, Mass.: Houghton Mifflin, 1990.

Bowman, Scott R. *The Modern Corporation and American Political Thought*. University Park: The Pennsylvania State University Press, 1996.

Carey, Alex. *Taking the Risk Out of Democracy: Corporate Propaganda Versus Freedom and Liberty*. Urbana: University of Illinois Press, 1997.

Chandler, Alfred D., Jr. *The Visible Hand: The Managerial Revolution* Cambridge, Mass.: Belknap, 1977.

Chelberg, Kathryn. "Public Relations and Corporate Issue Advertising: A Study in Advocacy and Political Speech." Master's thesis. University of South Carolina, 1987.

Coase, R.H. *The Firm, the Market, and the Law. Lanham*, Md.: Chicago: University of Chicago Press, 1988.

Curti, Merle. *The Growth of American Thought*. New Brunswick, N.J.: Transaction, 1964.

Cutlip, Scott M. *The Unseen Power: Public Relations, A History*. Hillsdale, N.J.: Lawrence Erlbaum, 1994.

Davis, John P. *Corporations*. 1905. Reprint. New York: Capricorn Books, 1961.

Deetz, Stanley A. *Democracy in an Age of Corporate Colonization*. Albany, N.Y.: State University of New York Press, 1992.

de Vreese, Claes H. "The Effects of Frames in Political Television News on Issue Interpretation and Frame Salience." *Journalism & Mass Communication Quarterly* 81: 1 (spring 2004): 36-52.

Dobrusin, Michelle. "Crass Commercialism: Is it Public Debate or Sheer Profit? The Controversy of Kasky v. Nike." 24 *Whittier Law Review* 1139 (2003).

Drucker, Peter F. "The New Meaning of Corporate Social Responsibility." *California Management Review* 26:2 (winter 1984): 53-63.

_____. *Concept of the Corporation*. Transaction ed. New Brunswick, N.J.: Transaction, 1993.

Earnhardt, J. Wesley. "Nike, Inc. v. Kasky: A Golden Opportunity to Define Commercial Speech — Why Wouldn't the Supreme Court Finally 'Just Do It<tm>'?" 82 *North Carolina Law Review* 797 (2004).

Easley, Allen K. "Buying Back the First Amendment: Regulation of Disproportionate Corporate Spending in Ballot Issue Campaigns." 17 *Georgia Law Review* 675 (1983).

Engler, Robert. *The Brotherhood of Oil: Energy Policy and the Public Interest* Chicago: University of Chicago Press, 1977.

Entman, Robert M. "Framing U.S. Coverage of International News: Contrasts in Narratives of the KAL and Iran Air Incidents." *Journal of Communication* 41:4 (Autumn 1991): 6-27.

_____. "Framing: Toward Clarification of a Fractured Paradigm." *Journal of Communication* 43:4 (Autumn 1993): 51-58.

Epstein, Edwin M. *The Corporation in American Politics*. Englewood Cliffs, N.J.: Prentice-Hall, 1969.

Ewen, Stuart. *PR! A Social History of Spin*. New York: Basic, 1996.

Friedman, Marilyn, May, Larry. "Corporate Rights to Free Speech." *Business and Professional Ethics Journal* 5:3-4 (fall-winter 1986): 5-22.

Gamson, William. "News as Framing: Comments on Graber." *American Behavioral Scientist* 33:2 (November-December 1989): 157-161.

Gamson, William, and Andre Modigliani. "Media Discourse and Public Opinion on Nuclear Power: A Constructionist Approach." *American Journal of Sociology* 95:1 (July 1989): 1-37.

Gandy, Oscar H., Jr. *Beyond Agenda Setting: Information Subsidies and Public Policy*. Norwood, N.J.: Ablex, 1982.

Gaye, Verne. "Mobil — They Speak Their Mind." *Marketing and Media Decision* (spring 1982): 87-97.

Gitlin, Todd. *The Whole World is Watching: Mass Media in the Making and Unmaking of the Left*. Berkeley: University of California Press, 1980.

Goffman, Erving. *Frame Analysis: An Essay on the Organization of Experience*. New York: Harper and Row, 1974.

Gowri, Aditi. "Speech and Spending: Corporate Political Speech Rights Under the First Amendment." *Journal of Business Ethics* 17:16 (1998): 1836-1860.

Greene, William N. *Strategies of the Major Oil Companies*. Ann Arbor, Mich.: UMI Research Press, 1985.

Green, Mark J., and Andrew Buchsbaum. *The Corporate Lobbies: Political Profile of the Business Roundtable and the Chamber of Commerce*. Washington: Public Citizen, 1980.

Greenwood, Daniel J.H. "Essential Speech: Why Corporate Speech is Not Free." 83 *Iowa Law Review* 995 (1998).

Guinness, Os. *The American Hour: A Time of Reckoning and the Once and Future Role of Faith*. New York: Free Press, 1993.

Hacker, Andrew. *The End of the American Era*. New York: Atheneum, 1970.

Hamilton, Adrian. *Oil: The Price of Power*. London: M. Joseph/Rainbird, 1986.

Heath, Robert L. *Strategic Issues Management: Organizations and Public Policy Challenges*. Thousand Oaks, Calif.: Sage, 1997.

Himmelberg, Robert F., ed. *Business and Government in America Since 1870*. New York: Garland, 1994.

Hodapp, Paul F., ed. *Business, Ethics and the Law*. Lanham, Md.: University Press of America, 1991.

Hollinger, David A., and Charles Capper, eds. *The American Intellectual Tradition*. Vol. I. 3d ed. New York: Oxford University Press, 1997.

Hoeveler, J. David, Jr. *The Postmodernist Turn: American Thought and Culture in the 1970s*. New York: Twayne, 1996.

Hurst, James Willard. *The Legitimacy of the Business Corporation in the Law of the United States, 1780-1970*. Charlottesville:

University of Virginia Press, 1970.
Jones, Peter Ellis. *Oil: A Practical Guide to the Economics of World Petroleum*. New York: Nichols, 1988.
Kaysen, Carl. *The American Corporation Today*, New York: Oxford University Press, 1996.
Kirkland, Edward C. *Dream and Thought in the Business Community*, 1860-1890. Ithaca, N.Y.: Cornell University Press, 1956.
Kuehner, Charles D., ed. *Capital and Job Formation: Our Nation's 3rd Century Challenge*. Homewood, Ill: Dow Jones-Irwin, 1978.
Kuhn, James W., and Ivar Berg. *Values in a Business Society: Issues and Analyses*. New York: Harcourt, Brace & World, 1968.
Kumaraswamy, P.R., ed. *Revisiting the Yom Kippur War*. Portland, Ore.: Stanford Frank Cass, 2000.
Lagasee, David R. "Undue Influence: Corporate Political Speech, *Power and the Initiative Process*." 61 Brooklyn Law Review 1347 (1995).
Lammers, Nancy, ed. *Dollar Politics*. 3d ed. Washington, D.C.: Congressional Quarterly, 1982.
Marchand, Roland. *Creating the Corporate Soul: The Rise of Public Relations and Corporate Imagery*. Berkeley.: University of California Press, 1998.
Mastro, Randy M., Costlow, Debra C., and Sanchez, Heidi P. "Taking the Initiative: Corporate Control of the Referendum Process Through Media Spending and What to Do About It." 32 *Federal Communications Law Journal* 315 (1980).
Matasar, Ann B. *Corporate PACs and Federal Campaign Financing Laws: Use or Abuse of Power*. New York: Quorum, 1986.
McCraw, Thomas K., ed. *Regulation in Perspective: Historical Essays*. Cambridge, Mass.: Harvard University Press, 1981.
_____. "Business & Government: The Origins of the Adversary Relationship." *California Management Review* 26:2 (winter 1984): 33-52.
_____. *Prophets of Regulation: Charles Francis Adams, Louis D. Brandeis, James M. Landis, Alfred E. Kahn*. Cambridge: Belknap Press of Harvard University Press, 1984.
McGovern, Amber. "Kasky v. Nike, Inc.: A Reconsideration of the Commercial Speech Doctrine." 12 *DePaul University Journal of Art and Entertainment Law* 333 (2002).
Miller, Arthur Selwyn. *The Modern Corporate State: Private Governments and the American Constitution*. Westport, Conn.: Greenwood, 1976.
Miller, Karen S. *The Voice of Business*: *Hill & Knowlton and Postwar Public Relations*. Chapel Hill: University of North Carolina Press, 1999.

Olien, Roger M., and Diana Davids Olien. *Oil and Ideology: The Cultural Creation of the American Petroleum Industry*. Chapel Hill: University of North Carolina Press, 2000.

Pall, Linda Louise Blackwelder. "Corporate Political Speech: An Alternative Analysis." Ph.D. diss. Washington State University, 1986.

Parenti, Michael. *Inventing Reality: The Politics of News Media*. New York: St. Martin's Press, 1993.

Parra, Francisco. *Oil Politics: A Modern History of Petroleum*. New York: I.B. Tauris & Co, 2004.

Redish, Martin H. and Wasserman, Howard M. "What's Good for General Motors: Corporate Speech and the Theory of Free Expression." 66 *George Washington Law Review* 235 (1998).

Reese, Stephen D., Oscar H. Gandy, and August E. Grant, eds. *Framing Public Life: Perspectives on Media and Our Understanding of the Social World*. Mahwah, N.J.: Lawrence Erlbaum, 2001.

Rome, Edwin P, and Roberts, William H. *Corporate and Commercial Free Speech: First Amendment Protection of Expression in Business*. Westport, Conn.: Quorum Books, 1985.

Schmertz, Herbert. *Corporations and the First Amendment*. AMA Management Briefing. New York: American Management Associations, 1978.

Schmertz, Herbert with William Novak. *Goodbye to the Low Profile: The Art of Creative Confrontation*. Boston: Little, Brown and Company, 1986.

Schofield, Michael. "Muzzling Corporations: The Court Giveth and the Court Taketh Away a Corporation's 'Fundamental Right' to Free Speech. 2 *Louisiana Law Review* 253 (1991).

Sethi, S. Prakash. *Advocacy Advertising and Large Corporations: Social Conflict, Big Business Image, the News Media, and Public Policy*. Lexington, Mass.: Lexington Books, 1977.

Sherrill, Robert. *The Oil Follies of 1970-80*. Garden City, N.Y.: Anchor, 1983.

Shockley, John S. "Direct Democracy, Campaign Finance, and the Courts: Can Corruption, Undue Influence, and Declining Voter Confidence Be Found?" 39 *University of Miami Law Review* 377 (1985).

Skeet, Ian. *OPEC: Twenty-Five Years of Prices and Controls*. New York: Cambridge University Press, 1988.

Sunstein, Cass R. *Democracy and the Problem of Free Speech*. New York: Free Press, 1993.

Sutton, Brenda, ed. *The Legitimate Corporation*. Cambridge, Mass.: Blackwell, 1993.

Teremenko, Victoria Dizik. "Corporate Speech Under Fire: Has Nike Finally Done It?" 2 *DePaul University Journal of Art and Entertainment Law* 207 (2003).

Tugwell, Franklin. *The Energy Crisis and the American Political Economy*. Stanford, Calif.: Stanford University Press, 1988.

U.S. Senate Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure. *Sourcebook on Corporate Image and Corporate Advocacy Advertising*. 95th Cong., 2d sess., 1978. Committee Print.

Vogel, David. *Fluctuating Fortunes: The Political Power of Business in America*. New York: Basic,1989.

Warner, Rawleigh, Jr., and Leonard S. Silk. *Ideals in Collision: The Relationship Between Business and the News Media*. Pittsburgh, Pa.: Carnegie-Mellon University Press, 1979.

Warner, Rawleigh, Jr. *Mobil Oil: A View from the Second Century*. Newcomen Society, 1966.

Wormser, I. Maurice. *Frankenstein Incorporated*. New York: Whittlesey House, 1931.

Index